

EXTENDED ENGAGEMENT:  
US DEVELOPMENT POLICY IN BRCKO, BOSNIA AND HERZEGOVINA

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When the International Community attempts to reform failed states recovering from war, it must not expect reforms to be self-generating or self-implementing. People in Bosnia and Herzegovina knew what they needed – jobs, economic growth, less corruption, justice and a responsive government – but not how to get them. For Brcko, there could be no question of “top-down” versus “grass roots” reforms. To succeed, every major reform had to be introduced and sold at every level. The effort had to be sustained long enough for the new structure – whether multiethnic schools, a reformed judiciary, or privatization – to begin working smoothly and to prove its worth.

Amb. Henry Clarke  
An Address for Eastern European Studies  
The Woodrow Wilson Institute  
February 4, 2004

EXTENDED ENGAGEMENT:  
US POST-CONFLICT DEVELOPMENT POLICY IN BRCKO, BOSNIA

*Taking the dynamic nature of peace and development into consideration, may we gauge a model for progress, relative in time and scope? May we extrapolate, from an extended engagement, a static model for other territories?*

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**Realizing Extended Engagement<sup>1</sup>:**  
**An Introduction to the Profile and Pertinence of the US Role in Brcko, Bosnia**

To improve practices within international development constant vigilance of current projects must be reinforced with objective evaluations of past efforts and careful consideration of future implications. Though the merits of an evaluative approach to foreign assistance may appear obvious, the temptation in international development policy is often a prioritization of crisis response at the expense of sustained development. This poses a challenge to those working in the field of sustainable development: to balance time-sensitive intervention with a commitment to long-term objectives. To reach not a *point* of recovery, but rather an *exponential* of self-generating progress - insurance against future backsliding to pre-interventionist conditions. Further still, the ubiquitous challenge to objectively evaluate methods of engagement calls international actors to take accountability for strides and stumbles along the path to development so that future endeavors may be more efficient and efficacious. It becomes imperative, then, that international development strategies consist not solely of emergency management and ephemeral policies, but rather on an understanding of the need, in relevant instances, for *extended engagement*. The characteristics and application of extended engagement are indeed variable from case to case. The intensity and capacity with which US foreign policy will engage is case specific: where one conflict may necessitate intense, flash military intervention, another may require multilateral economic pressure; it may be that in one region of a country development is catalyzed by active business consulting while in another region intervention no less intense than international supervision will suffice. This thesis will examine one instance of extended engagement as it developed in the Brcko District of Bosnia and Herzegovina (BiH). The specific case will be defined and its

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<sup>1</sup> Elements of this thesis can also be found in my essay "Brcko – Model for Peace," in *Brcko: Durable Model for Peace?*. Compiled by the Peace Operations Policy Program of George Mason University. US Institute of Peace Press. Washington DC. 2006 [est.] (forthcoming). The work is a collection of perspectives and analysis of the viability of the Brcko experience as a replicable model for peace in territories of ethnic conflict (namely Mitrovica, Kosovo and Kirkuk, Iraq).

sustainability and transferability will be analyzed. Further, in doing so, this thesis aspires to illustrate the efficaciousness of such extended engagement, the propensity for all intervention to develop into such a commitment and the broader implications for US development policy and the promotion of international development and US interests in other regions.

### *Global Citizenship and the Role of the US*

Extended engagement requires that the focus of policy-makers and actors in international development perseveres after the spotlight shifts. Public opinion and media are a fickle audience to the current events unfurled on a global theatre. As observers they have the luxury of following the breaking story and remaining invested so long as their self-interest is mostly obviously served. The responsibility of policymakers and public servants, however, is to exercise greater foresight. Through extended engagement international actors may prevent the costly sacrifice of *depth* and quality of engagement for *breadth* and quantity of contact sites. To remain constant to a cause – to see it through both the realization of the initial objective and maximization of learning opportunities - is fundamental not only to sustainable progress, but also to the prevention of the consequences of premature withdrawal. In the modern global arena, where the capacity to wage peace or war has been extended to individuals, single firms and networks<sup>2</sup>, the interests and welfare of citizens across the globe have become inextricably linked to one another. As citizens of the world, no nation's denizens are immune from the consequences of miscalculated foreign policy and the neglect of international development.

The events of September 11<sup>th</sup> served to concentrate the attention of policy-makers the American public and alike on the war-waging and nation-building unfolding in the Middle

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<sup>2</sup> This concept is widely written on in modern IR theory. For a readable, accessible description of the evolution of the modern, globalized community and rise of individual actors, the author recommends The World Is Flat by Thomas Friedman. This book discusses the emergence of new world actors and the interconnectedness of all people as a product of the *flattening* of the world, the deconstruction of the global power hierarchy. For a more academic foundation, works by Kenneth Waltz such as Man, The State and War offer insight to the different actors and the balance of power in international relations.

East and Central Asia. This could have been easily anticipated. Yet September 11th should also have been a reminder for the United States of the direct relationship between national security and international development. Weak states and their vulnerability to predators such as international terrorist networks pose a very real danger for international security.<sup>3</sup> Therefore, while crisis management remains critical, the benefits of monitoring broader international development objectives must not be overlooked. Just as a misjudged policy may threaten international security, a successful instance of development may offer sufficient economic alternatives; where terrorist networks, drug or arms traffickers or international criminals of any other description may have emerged a community may be strengthened. While the current administration has deemed it in the best interest of national security to pursue democratic development in Iraq and Afghanistan, it must not abandon the current role the US is playing in prior engagements thereby risking the degeneration of a tenuous state with stability as fragile as when intervention was first necessitated. To do so would be a international injustice, a threat to international and homeland security and, practically speaking, a waste of time, resources and the opportunity to effect change.

The United States, as a leader in international development, has layered opportunities and responsibilities in the continued observance of progress in countries such as Bosnia, and more specifically Brcko. First, it is in the best interest of Bosnia, the United States, and other entangled actors to remain committed to sustainable progress; premature withdrawal and the oversight of new and developing problems would be irresponsible and risk the welfare of all involved. Second, the analysis of policies which have affected sustainable development and appear transferable may expedite progress in other regions. Additionally, and perhaps most pressingly, Bosnia has yet to reveal its character *bez internaciani*. That the District of Brcko is still a supervised territory, and furthermore that the national government is still dependent

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<sup>3</sup> For a thorough analysis of the link between weak states and domestic security refer to “On the Brink: Weak States and US National Security” by the Center for Global Development



on OHR, calls to question the ability and behavior of a self-sustaining Bosnian state. The instance of extended engagement that has developed in Brcko, Bosnia reveals several uniquely successful methods in post-conflict reconstruction and integration. To understand and learn fully from events that have transpired therein, one must return attention to the setting and status of Brcko.

*Extended Engagement: The US in Bosnia Today*

Before war erupted in 1992, Brcko, Bosnia was a multiethnic community where, as with many localities in the former Yugoslavia, the ethnicity of one's neighbor was not a matter of life or death, empowerment or victimization. Bosniaks, Bosnian Serbs and Bosnian Croats<sup>4</sup> lived side by side, worked together in public and private ventures and prospered together in a region with one of the highest rates of employment and average salaries in the state of Bosnia and Herzegovina (hereinafter referred to as Bosnia or BiH).<sup>5</sup> However, just as Brcko's multiethnic composition had contributed to its prewar prosperity, the demographics of the city sentenced the District to intense violence and unrest during the war of the early 1990s. In the aftermath of the atrocities in Brcko the community was faced with a compound challenge. The District faced both the uniquely Brcko problem of resolving the hotly disputed question of where and how Brcko would fit into the national structure of BiH decided during the peace settlement *and* the dual challenge of many post-socialist communities of reconstructing a devastated community while enduring an economic transition to a free market. The focus of this thesis is the innovative resolution of these conundrums and the

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<sup>4</sup> Here is it helpful to note the civic connotation of social categorization that will be employed throughout this paper. Bosnian is a term that connotes one's civic identity with the state of Bosnia and Herzegovina; therefore a Reference to ethnic groups is a sensitive subject. Typical of writing in this genre, this thesis will use identification wherein the adjective refers to the civic identity and noun to the ethnic identity. A Bosnian Serb, therefore, is a person of Serbian ethnicity who is a citizen of Bosnia, likewise a Bosnian Croat is a person of Croatian ethnicity who is a citizen of Bosnia. Bosniak connotes a person of the faith of Islam living in Bosnia, a Bosnian Muslim.

<sup>5</sup> BiH is shorthand for Bosnia and Herzegovina in the local language, Bosna i Hercegovina (BiH).

debate over the sustainability and feasible transferability of the development model in this unique municipality perched strategically on the banks of the Sava River.

Waging peace in Brcko, BiH is an effort that has been handled, and is indeed *still* being handled, in a very unique manner. As a region straddling the Inter-Entity Boundary Line (IEBL), this “Posavina Corridor”<sup>6</sup> played a strategic role for both the Republika Srpska (RS) and the Federacija Bosna i Hercegovina (FBiH), the two opposing states of BiH. Brcko was of vital importance to all powers convened at Dayton. When signatories representing each faction met to negotiate a cease-fire all parties refused to concede their commitment to Brcko and debate threatened to derail (if not at least delay) the negotiations. The Dayton Peace Accords parried this stymie by “writing out” the Brcko dilemma, and resigning the roadmap for international intervention in Brcko to be drawn in several separate rounds of arbitration. It was decided that Brcko would become Europe’s only District, a “single administrative unit of local self-government existing under the sovereignty of Bosnia and Herzegovina.”<sup>7</sup> Just as Bosnia was assigned an Office of the High Representative to “to facilitate the Parties' own efforts and to mobilize and, as appropriate, coordinate the activities of the organizations and agencies involved in the civilian aspects of the peace settlement,”<sup>8</sup> Brcko would be placed under the supervision of the Deputy High Representative. The position of Supervisor has traditionally been filled by an American diplomat and though many international actors have been active in the District,<sup>9</sup> Brcko became a *de facto* site of intensive American intervention. Over the ensuing years The Brcko District experienced success in many measures of reconstruction and development that were unparalleled in BiH. The rate of

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<sup>6</sup> The “Posavina Corridor” refers both to the Southern region of Croatia's eastern Slavonia and to a canton approximately 1.5 times the size of Brcko, directly west of the District. The Corridor played the role of “all important link between Serbia proper and the Serb portion of West Bosnia... not to be confused with the “Posavina Pocket”... a fertile area just south of the Croatian border, comprising about 3% of the entire landmass of Bosnia, importantly, near the home of Federation president Zubak.” Holbrooke, Richard. *To End A War*. Modern Library. New York, New York. 1998. Page 272.

<sup>7</sup> The Statute of the Brcko District of Bosnia and Herzegovina.

<sup>8</sup> The General Framework for Peace in Bosnia and Herzegovina. Annex 10, art. 1, para 2.

<sup>9</sup> The Peace Implementation Council alone consists of 55 countries and agencies and is attended by a fluctuating number of observers. [www.ohr.int/ohr-info/gen-info/#pic](http://www.ohr.int/ohr-info/gen-info/#pic). Website Verification: 15 April 2006.

refugee return, integration of local government, local schools, local police, housing availability, employment opportunities, and jobs created, etc. However, the District, and BiH for that matter, have yet to prove themselves as capable of self-sustainability. The Deputy High Representative still supervises the District, EUFOR troops<sup>10</sup> still secure the locality and the presence of international peacekeepers still looms heavily in the air. The progress made thus far is impressive, yet the future of Brcko remains open-ended.

### *A Timely Assessment*

The death of Slobodan Milosevic, Croatia's application to the EU and heightened pressure on Serbia to apprehend indicted war criminals Ratko Mladic and Radovan Karadzic for atrocities committed in Bosnia, a degree of media and public interest has returned to these regions of the Balkan Peninsula. Yet, there is justification beyond fan-fare and news headlines for focusing on Brcko at the present time. December 14<sup>th</sup> 2005 was the decennary anniversary of the signing of the General Framework for Peace in Bosnia and Herzegovina (BiH)<sup>11</sup> and September of 2005 marked the passing of five years since the signing of the Statute of the Brcko District of Bosnia and Herzegovina. While BiH has risen from a point of imminent risk for resurgent violence, it remains, as a state, largely dependant on the Office of the High Representative (OHR) and, as a peaceful country, a tenuous body reliant still on an international presence. In short, neither BiH, the international community (IC) nor the US may declare recovery within Brcko or Bosnia and Herzegovina complete. Bosnian reforms at the national level, talks of EU application and the increasingly stretched allocation of resources have intensified the need to define both the future role of the international community (specifically the United States) in Brcko and the future position of Brcko in Bosnia. Moreover, it is not only reasonable but responsible to expect a country engaged in

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<sup>10</sup> The primary military presence has been EUFOR troops only since December 2, 2004. Previously, throughout the war and reconstruction period, NATO SFOR and IFOR troops were the strong hold.

<sup>11</sup> The General Framework for Peace in Bosnia and Herzegovina, known more commonly as the Dayton Peace Accords, was initialed after deliberation in Dayton, Ohio on November 21, 1995 and signed in Paris on December 14<sup>th</sup>, 1995.

development intervention to be constantly questioning its ever-evolving role. In Brcko the US should be (and is) an active inquisitor.

How far have we come? More pressingly, how far have we yet to go? The Brcko District brings to the table unique progress and problems. The process of deliberating the pervasiveness and sustainability of the District's reforms, their potential transferability throughout the former Yugoslavia and beyond, and the ambiguous future of the District persistently challenges the thought and theory of scholars and policymakers of the region with each passing day.<sup>12</sup> The verdict is still out. The problem in taking a "snap shot" of the present in a dynamic region with a constant flux of social, political and economic factors is just that – Brcko is not a static example of action and reaction; its time is not past, present or future, but progressive. A shallow analysis of the status quo may be misleading in judging the trajectory of the District. Still, there are observations to be made, programs and strategies to be evaluated, and results (of varying measure and merit) to be interpreted. One may hope that through this vigilance and scrutiny that a durable model for peace may be discerned.

### *Framing the Research*

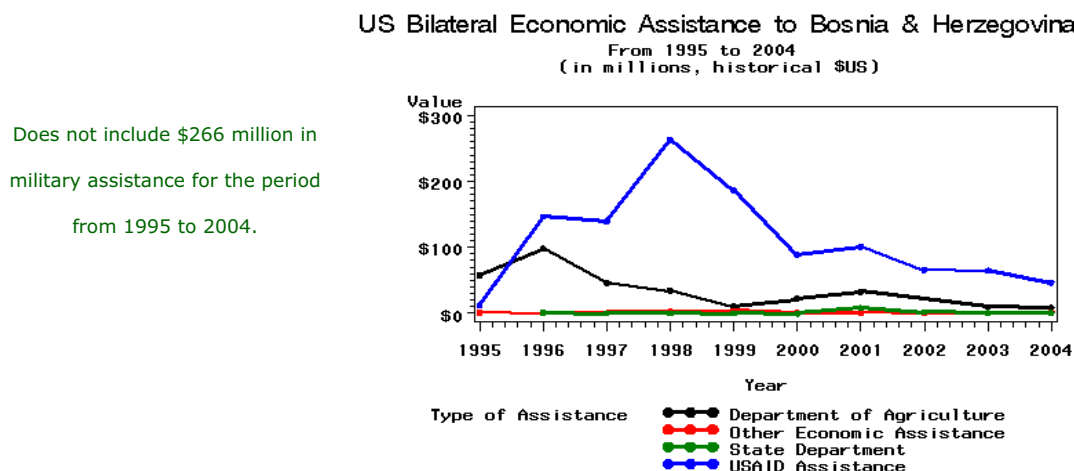
In research in Brcko during the months of April and May 2005 the author proposed to address many of the above ponderings with the intent of analyzing the role, past and present, of the US government in Brcko's development. The projects three-fold objective entailed the following: identifying what was unique about US assistance; judging the sustainability of the projects undertaken; and, projecting a thesis on the transferability of successful tactics to other regions of similar profile. This thesis will question whether an autonomous territory transitioned to self-governance with the assistance of an international supervisory (such as may be observed in Brcko) holds potential as a framework for numerous other conflict

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<sup>12</sup> For further reading refer to the Council of Foreign Relations Bosnia 2010 Publication and "Brcko: Model for Peace" by George Mason's POPP program.

areas.<sup>13</sup> Yet this is not a comparative study of conflict. This thesis is an investigation into dimensions of the policy and practice uncovered in Brcko, Bosnia: their novelty, their efficacy, sustainability, and their transferability will be explored. The goal is to frame this unique experience of extended engagement for the value of appreciating the progress made in Bosnia, the challenges that remain and the lessons that may be applied in regions of similar scope. To arrive at what may be transferable components of a “model” for other regions of conflict, the author began by exploring (through field research, observations and interviews) the intricacies and implications of this unique supervised territory.

There is no doubt that the role of the US government in Brcko was and is significant, indispensable even, to Brcko’s recovery. Isolating aspects of this role posed a greater challenge. The “Greenbook on US Overseas Loans & Grants” released by the US Agency for International Development identifies four categories of aid to BiH between the years of 1995 and 2004.



Although USAID was the primary delivery agency, it is important to note that government departments and miscellaneous funding were large contributors as well. The Department of

<sup>13</sup>The concept of directing the model to named conflict areas (versus mere academic discussion) first presented itself to the author at the conference “Brcko: Durable Model for Peace” held at the George Mason University and conducted by the Peace Operations Policy Program in September 2006. Localities mentioned were Kirkuk, Iraq and Mitrovica, Kosovo. The author further questions whether the model may be applicable to Nagorno-Karabakh, Chechnya and Abkhazia.

Agriculture, in fact, was the most significant donor throughout early 2005. As a highly visible organization, USAID is often interpreted as the sole US international development agency; this misunderstanding neglects the work funded through other sources would be a misrepresentation of US development policy.<sup>14</sup> For reason and others, this thesis acknowledges overlap in many projects while distinguishing between exclusively USAID projects and other development efforts.

To have analyzed all “instruments” of the US assistance would have been impossible given time and resource constraints. This study concentrates on five: resource allocation for specialized arbitration, the role of the Supervisor, direct US government economic assistance, the projects of the US Agency for International Development (USAID) and the work of the Brcko Law Review Commission. Subsequently, there are vital aspects of the Brcko experience neglected by this thesis. It goes without saying that the scope of achievement in Brcko would have been a sheer impossibility without the level of security achieved in the District. While American military in the District and the importance of pervasive, full-scale reform of the Brcko police will be addressed peripherally, their significant contribution to progress in Brcko can not be emphasized enough. Implicit in the discussion of the transferability of this model of development is the military backing to do so. Other aspects of the District development may be underrepresented because this thesis isolates American led reform. Integration of the school system, a current project on Public Administration and the fostering of a civil society are examples of European targets of development. Though fundamental to Brcko’s recovery, these have been understated to isolate the American operated “targets” and “instruments” in Brcko’s experience. Neither does this thesis aspire to

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<sup>14</sup> The author’s motivation in emphasizing this point stems from an early March 2005 conversation with a Political Science Undergraduate at the University of Zagreb who based a blanket criticism of US foreign policy on the argument that “America directed only .01% of its GNP to international aid.” This fact is hugely misleading in that .01% of the US GNP is routed to USAID. A further sum is devoted to the international community through other departments, agencies and legislation. Many qualities of the scope and style of US development policy is deserving of criticism; to do justice to the effort at reform one must acknowledge the full picture. Perhaps the distinction in this paper will serve to clarify this point.

belabor the crimes committed in Bosnia or military operations. The background of the region, therefore, will be presented with emphasis on its relevance in understanding what is unique about Brcko as a specific case of US extended engagement.

*Thesis Structure: Targets and Instruments*

The ensuing chapters aim to demonstrate both the “target” and “instruments” of practices undertaken in the extended engagement exercised in the Brcko District. Distinguishing between the two will demonstrate where specific instruments achieved multiple objectives, rendering them either particularly efficient or incapable. Success in Brcko may be ascribed to the achievement of five particular objectives, or “targets”: *stability and infrastructural recovery*; use of unique arbitration to resolve a stymie in the peace process and derive a *case specific resolution*; the consolidation of and reform within a new District Government to establish *political stability*; self-perpetuating legal reform to guarantee the *rule of law* within the District; the fostering of *economic recovery and development* such that the community can rediscover their livelihood. The development of a vital, sixth objective, the *development of a civil society* is addressed indirectly through the thesis in discussion of public engagement and scrutinized more closely within the final chapters. This thesis questions the citizens and implementers themselves as to the success, sustainability and transferability of the “Brcko Model.” Specifically for the purpose of questioning the transferability of the extended engagement found in Brcko BiH, it is structured to emphasize the “instruments” through which these targets were reached and Instruments of implementing US policy towards Brcko and BiH may be understood as the actual programs and activities of the Department of State (DoS), USAID, Department of Agriculture, other direct government economic assistance. For example, the Supervisory is an instrument of the Department of State because the Supervisor and staff are employed through and directed by the US DoS. An example of a less tangible instrument within the

Brcko model is the unique arbitration process that initiated the establishment of the District and has entertained reports of its progress. Therefore, arbitral institutions such as the Peace Implementation Council also fall into the DoS toolset. This thesis is organized to illustrate the use of instruments such as these and those detailed below.

The first chapter will offer the historical backdrop of the extended engagement exercised in Brcko; Brcko's history, as it relates to the localities strategic importance, pre-war profile and challenge to the peace negotiation process will be presented. This chapter will analyze the unique diplomatic resolutions and arbitral institutions which emerged to respond to the Brcko conundrum and implicitly introduce intervention exercised in the District. The second chapter delves deeper into the forces at work in the Brcko District. It details the institution, operation and implication of the Supervisor. This analysis introduces alternative forms of direct US financial assistance to the District with particular emphasis on the impact of Quick Impact Funds and SEED grants and assistance. The third chapter focuses exclusively on the work of the Brcko Law Review Commission with a brief indulgence into Brcko's unique mode of privatization. As the origins of many of the legal revisions implicate numerous drafted laws as particularly mobile, a greater emphasis on the transferability of these particular instruments is made in this chapter. The legal foundations for the District thus established, the fourth chapter expounds on projects of USAID contracted teams, the District Management Team (DMT) and Planning and Development Collaborative (PADCO). This chapter concludes the introduction of instruments and guides the readers towards the ensuing discussion of the potential sustainability and transferability of Brcko's progress. The fifth chapter, Issues of Sustainability, concentrates on just that. Discussion of sustainability involves theoretical threats and supports to the Districts progress as well as the durability evidenced by the reforms detailed thus far. Likewise, the sixth chapter on Issues of Transferability addresses the both theoretical concepts as well as practical data to analyze the ambiguous trajectory of the District. This chapter introduces, with reservations, potential



targets of the District's mobile reforms that are currently being discussed by experts from the region.

The final section of this thesis does not purport to draw conclusion as to the sustainability or transferability of the observed progress in the Brcko District. Rather it collects and reiterates both main and peripheral concepts introduced in this thesis. From these concepts, the closing expounds on the author's theory of extended engagement as it has been observed in the Brcko District of Bosnia and Herzegovina.

--- Chapter I ---

## BRCKO, BOSNIA: PLACE AND TIME

“In Brcko, all the issues that originated the conflict come together,” Bildt said [Carl Bildt, Former Prime Minister of Sweden, charged with carrying out the peace agreement in Bosnia]. “It was 52 per cent Muslim before the war, but ethnic cleansing was brutal. It’s nowhere near sorted out.” Said one of his aides, “If fighting does start up again after the end of this year, Brcko could easily be the place where it happens.”<sup>15</sup>

These words from the first High Representative of BiH ring of the anxiety and apprehension with which the world monitored this river port municipality in the Posavina Pocket through its early stages of recovery. Though a burden to the IC, Brcko has benefited from being the target of much international angst and attention since the peace settlement was negotiated. Considered by many to be the “key to Bosnia’s Future,”<sup>16</sup> the District was the site of an intensive extended engagement on behalf of international donors, most specifically the United States. Its location has made it a strategically valuable throughout history; a status no less appreciated during the conflict, negotiation process, or post-conflict reconstruction of recent years. A basic profile of the District, the conflict therein, and the unique challenges to the peace negotiations in the territory are fundamental to understanding why the US pursued a tactic of extended engagement in Brcko and what lessons may be drawn from the experience

### **An Historical Crossroads: Setting and Strategic Significance**

“The linchpin to success in the Posavina [corridor], and possibly Bosnia, is the integration, economically and socially, of Brcko”<sup>17</sup>

Col. Gregory Fontenot, Commander of the 1<sup>st</sup> Armored Division 1<sup>st</sup> Brigade

The Brcko District (hereafter, Brcko or the District) applies to the Brcko municipality and the surrounding small villages identified with this locality. Brcko lies within the Posavina Corridor of Bosnia and Herzegovina bordering Croatia, situated strategically along the Sava

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<sup>15</sup> Whitney, Craig. “As Carl Bildt Sees Things, Bosnia Has A Shaky Future.” New York Times. March 26, 1996. Page 5.

<sup>16</sup> Beelman, Maud. “The City of Brcko: The Key to Bosnia’s Future.” A publication of an Alicia Patterson Reporter. 1997

<sup>17</sup> Beelman, Maud. “The City of Brcko: The Key to Bosnia’s Future.” A publication of an Alicia Patterson reporter. 1997, pg 3

River and bisected, nearby the city center, by the River Brka. This location established Brcko as a multiethnic center for trade and transit early in its history. A crossroads for Balkan markets, Brcko was particularly known throughout the industrial period of the 1800s as a great exporter of plums and prunes, itself home to several plants, a distillery, two sawmills and two brick plants.<sup>18</sup> It is perhaps Brcko's invaluable ability to produce *rakija*<sup>19</sup> that has engendered such devotion for the District. The modern Brcko of the 1900s was among the most prosperous municipalities in BiH due to successful agricultural industry and a Sava River port which served as a point of transit for goods flowing into and out of Tuzla, an industrial and mining center southwest of Brcko.

Settled as early as the first century, Brcko has been dominated by a litany of powers from the Romans to the Goths, Bulgarians, Byzantines, Serbs, Hungarians, and Turks up until the tumultuous 1990s – a century marked by war in both the opening and closing decades.<sup>20</sup> Early Balkan Wars of 1912 and 1913 launched the territory into a period of governance under the Kingdom of Serbs, Croats and Slovenes following the First World War. Having endured World Wars One and Two, Brcko (like most of the former Yugoslavia) found a relative peace during the Tito years. Under Tito's unique form of socialism the people of Brcko and BiH reaped the benefits and economic comforts (fleeting though they were) of a soft-budget constraint system and enjoyed broader social liberties than were granted to citizens of other socialist nations. This sheltered socialist economy, however, created a problematic legacy which would complicate future economic development during post-conflict reconstruction and systemic transition. As disasters often do, the war in Bosnia 1992-1995 surfaced latent problems inherent to the Bosnian political and economic system. Post-conflict reconstruction,

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<sup>18</sup> "The Future Has Begun. Publication of the Government of Brcko District of BiH. Prepared by Muhamed Majukic and Petar Vasic. Second Reviewed edition released for March 8, 2004.

<sup>19</sup> Rakija is the local language word for the famed Bosnian plum brandy.

<sup>20</sup> Scholars such as Zbigniew Brzezinski, Alexander Danchev, Paul Saffo have referred to the twentieth century as the "Sarajevo Century" or "76 year century" in reference to the bookend Balkan wars of the 1990s (the former being the 1912 Balkan War leading to the 1914 assassination of the Archduke Ferdinand, igniting the First World War; the latter, the fall of Yugoslavia and the wars of the 1990s).

therefore, was compounded by the task of managing (or, to the contrary, decentralizing) a former socialist economy. The fact that this war surfaced consequences unrelated to the causes of conflict would pose a dual challenge to those engaged in post-war reconstruction and sustainable development.

### **1992 and Onward**

“I did not think the fighting would be so serious,” said Izetbegovic. Milosevic nodded in agreement, and added, “I never thought it would go on so long.”<sup>21</sup>

Brcko was the site of intense fighting early in the war of 1992 – 1995 in Bosnia, both because of its mixed ethnic composition and its strategic location. No more than a five minute drive from the downtown Brcko center stretches the Inter-Entity Boundary Line (IEBL), a powder keg of tension and violence during the war. According to a census taken in 1991 the population of Brcko before the war was 87,332, 44.4 % of whom were Muslim, 25.4 % Croat, 20.8 % Serb and 6.4 % identified as Yugoslav.<sup>22</sup> In 1994 Brcko's population decreased to 30,000, with 5% Muslim, 93% Serb, and 2% Croat.<sup>23</sup> A public census has not been taken since 1991. However, statistics used for the restructuring of the BiH (and Brcko) police claim the District has a population of 87,332 with the following composition: 18,122 Serbs (20.7%), 22,168 Croats (25.4%), 38,771 Bosniaks (44.4%) and 8,265 Other (9.5%).<sup>24</sup>

On April 30<sup>th</sup>, 1992 the JNA (Yugoslav National Army) established a position in Brcko with tanks and armored personnel carriers. The town was under siege for two days during which time Serbian forces operated heavy artillery from the protection of BRS

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<sup>21</sup> Holbrooke, Richard. *To End A War*. The Modern Library. New York, New York. 1999. Page 245.

<sup>22</sup> War Crimes in Bosnia-Herzegovina. A Helsinki Watch Report, Human Rights Watch. New York, New York. August 1992. Pgs 94 and 95.

<sup>23</sup> War Crimes in Bosnia-Herzegovina. A Helsinki Watch Report, Human Rights Watch. New York, New York. August 1992. Pgs 94 and 95.

<sup>24</sup> Final Report on the Work of the Police Restructuring Commission of BiH. OHR-Sarajevo, HR Paddy Ashdown. 31 December 2004. <http://www.ohr.int/ohr-dept/presso/pressr/doc/final-prc-report-7feb05.pdf>  
Website Verification: 15 April 2006.



## **A Challenge to Negotiating Peace**

Of the key “map issues” problematic during the negotiations, “the most critical were certain to the Gorazde, Sarajevo, and Brcko. Tough as the first two were, we [the negotiating team led by Holbrooke] suspected that Brcko would be the most difficult.”<sup>28</sup>

*“Mountain of Corpses”*

Brcko would have stymied a coalition of peace negotiators from any region, of any background, of any composition. Yet, the particular assembly that convened in Dayton Ohio for twenty-one days in 1995 from November 1 to November 21 was burdened with additional baggage. Despite the diplomatic prowess and experience of the negotiating team, the conference unveiled an impenetrable distrust between the representatives of the warring parties; this insurmountable distrust, perhaps, is what led the chief negotiator to question whether the Accord “brought peace to Bosnia, or only the absence of war?”<sup>29</sup> The Presidents of each warring nation spoke for their respective country: Slobodan Milosevic represented Serbs, Franjo Tudjman represented Croats and Alija Izetbegovic, BiH. Dayton was complicated by what Holbrooke described as “standard Balkan negotiating procedure not to accept anything that came from the other side without trying to change it”<sup>30</sup> and obstructed by what Izetbegovic described as a “mountain of corpses.”<sup>31</sup> Proceedings crawled along, reduced at times to meter-by-meter arguments.

The negotiating parties expected the Posavina Region, the location of the Brcko District, to be a contentious point before the conference commenced. For the Republika Srpska (RS) and the Federation of BiH (FBiH), and subsequently for their representative signatories, Brcko had great strategic and cultural value. The eastern and western halves of the RS met, quite literally, in Brcko. Administration under any power other than the RS would threaten the integrity of the Bosnian Serb entity. Bosniaks and Croats presented the equally compelling argument that Brcko town was the only direct border FBiH had to Croatia,

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<sup>28</sup> Holbrooke, Richard. *To End A War*. The Modern Library. New York, New York. 1999. Page 273.

<sup>29</sup> Ibid. Page 360.

<sup>30</sup> Ibid. Page 286.

<sup>31</sup> Ibid. Page 297.

and the transportation options of highway and railway through Slavonia. The river port on the Sava was of, perhaps, even greater value economically. Further, the FBiH made the moral case of the Bosniak and Croat displaced persons' right to return and therefore inhabitation of the region; Serbs offered the legitimate retort that many of the Serbs living in the District had been displaced from their



homes in Sarajevo and surrounding areas. These claims are all visible in the inset map.<sup>32</sup> The war had confined residents of the region to three, ethnically-based communities: Brcko Town (Serbian), Brcko Brka (Bosnian), and Brcko Ravna (Croatian).

#### *Tic-for-tat: Tackling the Map Questions*

Beyond loyalty to the territory itself lay the issue of a precedent set in past arbitration. A plan devised by the 1994 Contact group had formally agreed to a 51-49 split of Bosnian territory between the FBiH and RS respectively. Reference to the “51-49” agreement became the Milosevic mantra for demanding more territory. By day nineteen of the conference major territorial disputes remained and the only proposed solutions to these remaining “map questions” delegated 55% of the territory to the FBiH.<sup>33</sup> The original “map issues” included allotment of the following regions: Sarajevo, Brcko and the Posavina Corridor, Gorazde, the “Posavina Pocket,” Srebrenica and Zepa, and Bosanski Novi. Dialogue over Gorazde was opened by day sixteen, over which the first territorial negotiation was performed by the directly opposing parties. As progressively more territory was distributed for the importance of jurisdiction over the Brcko municipality heightened. Tudjman was first to concede land

<sup>32</sup> OHR Maps. Source: [www.ohr.int/ohr-info/maps](http://www.ohr.int/ohr-info/maps). Website Validation: 15 April 2006.

<sup>33</sup> Holbrooke, Richard. *To End A War*. The Modern Library. New York, New York. 1998. Page 295.

and bring the territory to a 52-48 allocation of territory; Izetbegovic, however, appeared unyielding. Milosevic's recommendation for achieving a 51-49 breakdown was "a widening of the Posavina Corridor... the same corridor that Izetbegovic continually insisted be reduced."<sup>34</sup>

In Holbrooke's account of the final hours of the conference he details the agonizing deliberation to resolve the 51-49 debate. The American negotiating team issued the following ultimatum to Izetbegovic: concede to the 51-49 breakdown or face the failure of Dayton, and lose all that has been gained. The Bosnian president, thirty minutes to deadline, agreed "to shave the necessary 1 percent of the land in order to get to 51-49, but they wanted something in return – Brcko."<sup>35</sup> It became apparent a viable solution would be one argued over vehemently by both parties and that further arbitration was necessary. The final exchange which destined Brcko to a deterred settlement and unique status is described by Richard Holbrooke in To End A War as follows:

"Okay, okay," Milosevic said. "I will walk the final mile for peace. I will agree to arbitration for Brcko one year from now, and you can make the decision yourself Mr. Christopher"<sup>36</sup>... Christopher listened silently, and then nodded. Without stopping to talk to anyone else, we walked directly to Izetbegovic's rooms, where the three Bosnians waited for us. We outlined the offer from Milosevic. Silence. I repeated it, slowly and carefully... the talks were over unless the offer to put Brcko under arbitration was accepted.

There was a long, agonizing pause. We watched Izetbegovic carefully. Finally, speaking slowly, Izetbegovic said, "It is not a just peace"... "But my people need peace."<sup>37</sup>

With these words the progress made at Dayton was salvaged and Brcko was resigned to "to binding arbitration of the disputed portion of the Inter-Entity Boundary Line in the Brcko area."<sup>38</sup>

As it turned out, it was Roberts Owen, not Warren Christopher, who would oversee the process of arbitration. A long-time DoS legal consultant and co-author of the Constitution

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<sup>34</sup> Holbrooke, Richard. To End A War. The Modern Library. New York, New York. 1998. Page 297

<sup>35</sup> Ibid. Page 305.

<sup>36</sup> Referring here to Secretary of State at the time, Warren Christopher.

<sup>37</sup> Holbrooke, Richard. To End A War. The Modern Library. New York, New York. 1998. Page 309.

<sup>38</sup> The General Framework Agreement for Peace In Bosnia and Herzegovina. Annex 2, art. V.



of BiH, Owens directed a process which would require more than the ambitious year-long prognosis. The institutions established to oversee the arbitrator and implement its ruling were as novel as the resolution for the Brcko District.

### **Innovative Measures and Diplomatic Legacy**

Dayton surfaced persistent obstacles of which future US diplomats and policy makers must remain particularly weary. Innovative measures were also taken to satisfy the most troublesome points of Brcko's Arbitration, measures that indeed hold potential for future negotiations. To explore aspects of negotiating the entire General Framework would be a divergence from this thesis. However, several diplomatic innovations germane to the District arbitration established unique precedents in international territorial dispute. The resigning of the Brcko Dilemma to further arbitration concluded the negotiations on a tone of willingness to circumvent obstacles to a cease-fire. This same flexibility and ingenuity allowed for the instatement of a civil authority to oversee implementation of the accord. Recognition of the need for a civilian authority (vested in the Office of the High Representative), in addition to military regulation to implement the treaty, was fundamental to the structure of the BiH and Brcko governments. Later arbitration over Brcko employed the following, equally innovative, measures: the establishment of institutions such as the Arbitral Tribunal and Peace Implementation Council (PIC) to oversee the negotiations; the resolution of "condominium," a power sharing settlement, to circumnavigate misallocation of authority to either entity. Lastly, these innovations represent a powerful combination of *force* and *flexibility* exercised on the part of the US and intervening international negotiators.<sup>39</sup>

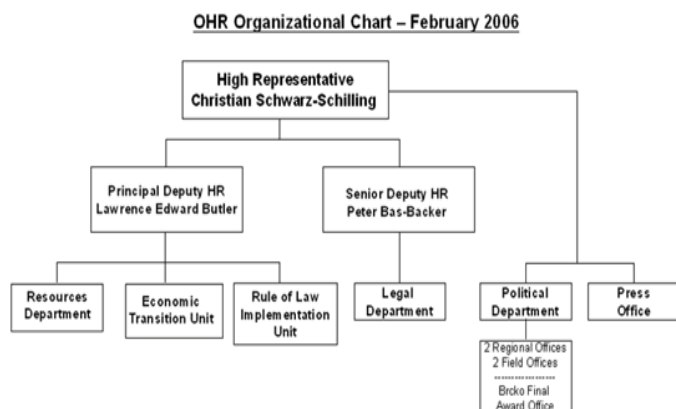
### **Civilian Leadership and Structure of the District**

An Office of the High Representative (OHR) whose mission it was to implement the Dayton Peace Agreement was instituted on a national level in BiH. What would develop in

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<sup>39</sup>Holbrooke, Richard. *To End A War*. The Modern Library. New York, New York. 1998. Page 368. Notable is the "strengthened and expanded" role of the Organization for Security and Cooperation in Europe (OSCE)

Brcko was a position of a Deputy Assistant High Representative who would serve as the Supervisor of city, and report directly to OHR. The creation of a civil supervisor, on a national scale and within the district, has proven pivotal to moving forward with



reconstruction and reforms in Bosnia. Discussion of the transferability of the Brcko model cannot avoid the unique circumstance under which this institution developed. That a High Representative, or Supervisor,

could expedite conflict resolution is not in doubt; what is, however, is the reception that this position would find in another scenario. While diligence on behalf of the IC has enabled an able civic leader, the success of the structure is indebted largely to the fact that the contentious parties were amenable to foreign leadership. GFAP's institution of OHR emphasizes this point:

In view of the complexities facing them, the Parties request the designation of a High Representative, to be appointed consistent with relevant United Nations Security Council resolutions, to facilitate the Parties' own efforts and to mobilize and, as appropriate, coordinate the activities of the organizations and agencies involved in the civilian aspects of the peace settlement by carrying out, as entrusted by a U.N. Security Council resolution, the tasks set out below.<sup>40</sup>

The OHR is funded by the PIC. Its budget in 2006 is 13,8 million Euros. Contributors to the OHR budget break down as follows: EU 53 %, USA 22%, Japan 10%, Russia 4%, Canada 3.03 %, OIC (Organization of Islamic Countries) 2.5%, others 5.47%. The above diagram illustrates the various departments and units of OHR.<sup>41</sup> High Representatives have hailed from various EU countries and brought with them unique backgrounds. Each has also led the

<sup>40</sup> The General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 10, art 1, para.2.

<sup>41</sup> Office of the High Representative, General Information.

Source: [www.ohr.int/ohr-info/gen-info/#pic](http://www.ohr.int/ohr-info/gen-info/#pic). Website Validation: 15 April 2006.

representative corp. of the EU to BiH. It was postulated, and held to be true, that an EU representative could not only alleviate tension and conflict in implementing post-conflict changes, but also anticipate reforms necessary for eventual integration to the European Union. The position of Supervisor of the Brcko District, on the other hand, has been held exclusively by an American. While the creation of an Office of the High Representative provided key infrastructure to the new state it did not resolve all the territorial disputes. Implementation of GFAP and a decision on the final status of Brcko had yet to be finalized.

### **Arbitration towards “Awards” and a Condominium**

On December 8<sup>th</sup> and 9<sup>th</sup> of 1995, not a month after the signing of the GFAP, a Peace Implementation Conference was held in London. The result was a Peace Implementation Council (PIC) composed of 55 countries and organizations dedicated to the surveillance of peace development in BiH. The Council appointed a Steering Board, comprising the G8, the Presidency of the European Union, the European Commission, and the Organization of the Islamic Conference (OIC), as the executive arm of the PIC and offers political guidance to the High Representative.<sup>42</sup> These institutions, along with the Arbitral Tribunal, would be key players in the events preceding the establishment of the Brcko District.

Arbitration over the Final Status of Brcko involved numerous conventions, termed “awards”. It was a process in which the region under contention had to first be defined, and then placed under jurisdiction of an authority. In February of 1997 an arbitration council led by Owen and composed of representatives from the RS and FBiH<sup>43</sup> met in Rome. The result of their efforts, the “Rome Award”, was issued on February 14<sup>th</sup> 1997 and mandated that Brcko fall under “interim international supervision” and that OHR open a site in Brcko and

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<sup>42</sup> The Peace Implementation Council and Steering Board. OHR General Information. Source: [www.ohr.int/ohr-info/gen-info/#pic](http://www.ohr.int/ohr-info/gen-info/#pic). Website Validation: 15 April 2006.

<sup>43</sup> Signatories of the Rome Award included Presiding Arbiter Roberts Owen, RS President Vitomir Popovic and FBiH President Cazim Sadikovic. Pursuant to Article 32(4) of the UNCITRAL Rules, the Tribunal notes that, for the reasons stated in Paragraph 27 of this Award, the party-appointed arbitrators were excused from signing the Award. Rome Award Chairman's Conclusions. 14 February, 1997.

appoint a Deputy High Representative.<sup>44</sup> This Deputy High Representative would wear the dual hat of liaison to OHR and Supervisor of Brcko. Charged with broad, inclusive responsibility, the Supervisor was expected to reach targets ranging from the formation of a local Advisory Council, to the coordination of international donors and organizations to economic revitalization. The institution of a Supervisor allowed for progress to move forward while arbitration over the final status of Brcko continued. Meanwhile the Arbitral Tribunal announced it would “entertain from either party requests for further action affecting the Award with respect to the allocation of political responsibilities in the area.”<sup>45</sup>

*Interim Awards: Vienna and Supplemental*

The Vienna Award, issued March 7<sup>th</sup> 1997, was the second decision put forth by the Arbitration Council and Steering Board of the PIC announcement the implementation of the Rome Award. US diplomat Robert Farrand was appointed as the supervisor of Brcko and Deputy High Representative. Primary factors of GFAP and Brcko Arbitration implementation were identifies as follows: overall international coordination, economic revitalization, international police and freedom of movement, return of refugees and displaced persons, and local elections.<sup>46</sup> These priorities opened the District with the objective of transparent, sustainable self-rule; a target which would remain constant throughout the development period. Both the RS and FBiH continued to vie, at time belligerently, for the region under dispute. Regardless, the Supervisor made great progress towards a multinational executive, assembly, administration and police force. The status of Brcko was complex. Arbitration had yet to be resolved and basic post-war recovery yet to be undertaken. Economic development was non-existent, international investment was hesitant and public

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<sup>44</sup> Brcko Arbitral Tribunal for Dispute over the Inter-Entity Boundary in Brcko Area, Chairman's Conclusions. 14 February, 1997

<sup>45</sup> Ibid.

<sup>46</sup> Brcko Implementation Conference, Chairman's Conclusions. 7 March 1997.

services fundamental to everyday life, such as water and electric systems were poor, if at all functional. The road to recovery lay ridden with unknowns.

Again, on March 15<sup>th</sup> 1998 the tribunal once again dodged a conclusive ruling on a final status by issuing a Supplemental Award. Much of the Award provides a summary of events since Vienna, resulting in an impressive tab of impasses, progress reports and brazen charges of interference with GFAP and Arbitral Awards on the part of the Entities. Demonstrated evidence was particularly incriminating for the RS, though neither entity had behaved cooperatively. “RS authorities in Brcko, directed by the Serbian Democratic Party ("SDS") headquartered in Pale, effectively resisted all of the supervisory programs looking toward Dayton compliance in the Brcko area... This is not to say that the Federation's record of compliance with the letter and spirit of the Dayton Accords was perfect.”<sup>47</sup> Mild improvements in cooperation made in large part by the RS President Biljana Plavsic were all that kept the presiding council from integrating Brcko into the FBiH.<sup>48</sup> The RS was directed to recognize that a “wider corridor” through Brcko was not an option while the FBiH was instructed to ameliorate the process of refugee return. The concept that Brcko could be an entirely independent entity unto itself was speculated, specifically since little progress had been made on the grandeur scale of mediation between the RS and FBiH.<sup>49</sup> This potential was made not only implicitly in the confirmation of the role of the Supervisor and the extension of Farrand’s powers, but explicitly stated in Article Six: “Alternative solutions that will be seriously considered by the Tribunal will be the location or relocation of the IEHL... and the conversion of the pre-war Brcko Opstina into a "neutral district" beyond the exclusive

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<sup>47</sup> Arbitral Tribunal for Dispute over Inter-Entity Boundary in Brcko Area, Supplementary Award. Chairman’s Conclusions. 15 March 1998.

<sup>48</sup> Owens had, in fact, been leaning towards awarding Brcko to the FBiH due, in part, to what seemed like “flagrant obstruction of the Dayton mandate on the part of the RS.” Source: Ibid.

<sup>49</sup> Arbitral Tribunal for Dispute over Inter-Entity Boundary in Brcko Area, Supplementary Award. Chairman’s Conclusions. 15 March 1998.

control of either Entity.”<sup>50</sup> Both parties were informed that a decision would be made in 1999. Indeed it was.

*The Final Award: Responsibilities and Reaction*

In early March 1999, after much deliberation, all parties involved reconciled that a decision must be reached by the presiding arbiter and, on March 8<sup>th</sup> 1999, Roberts Owen proclaimed the Final Award of the Arbitration Tribunal for Brcko. Article 1, paragraphs 8-11 mandates, as perhaps had been expected:

The international supervisory regime must continue in force indefinitely in the Brcko area... As an institution existing under the sovereignty of Bosnia and Herzegovina, the new District government will be subject to the powers of the common institutions of BiH as those powers are enumerated in the BiH Constitution. All other powers of governance within the Brcko Opstina, having been delegated by the two entities, will be exercised exclusively by the District government... Upon the establishment of the new District, the entire territory, within its boundaries (i.e., the pre-war Brcko Opstina) will thereafter be held in "*condominium*" by both entities simultaneously... Neither entity, however, will exercise any authority within the boundaries of the District, which will administer the area as one unitary government.”<sup>51</sup>

Anticipated as the concept of a “condominium” had come to be, its implementation tread on new ground. Brcko is the first and only District in Europe. While neither entity retained exclusive control in the District, each was obligated to it. The objective was to create a sovereign entity whose neighboring predators would be invested in its success. Thus removed from the ethnic power struggle, Brcko would be left to focus exclusively on recovery. The establishment of Europe’s only District was, therefore, a win for District self-governance at a loss for both entities.

The old adage applies, that with freedom comes responsibility. As a self-sustaining under the sovereignty of the government of BiH the Brcko District would be responsible for funding and providing all services to it’s constituents. The police force, the school system, the court system, legislative body, health care, utilities, public services, all would fell under

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<sup>50</sup> Arbitral Tribunal for Dispute over Inter-Entity Boundary in Brcko Area, Supplementary Award. Chairman’s Conclusions. 15 March 1998.

<sup>51</sup> Final Statue of the Brcko District of Bosnia and Hercegovnia. 05 March 1999.

the jurisdiction of a newly established government, which itself faced the challenge of managing internal operations. Needless to say this task was daunting and Brcko residents were justifiably apprehensive about the work that lay ahead. Compounding the difficulty of the transition, recovery from the war was to occur in a totally different economic and political system. Transition entailed, in Brcko as in all of BiH, developing from a socialist system into a democratic government and capitalist market. The duality of Brcko's developmental challenges (the need to address post-war recovery during systemic transition) would be a persistent hindrance to sustainable reform. To the credit of the District, visible progress has instilled some faith in Brcko citizens in new institutions of the District and their operations. Slowly, a multiethnic government working effectively with international aid to address the needs of the people of Brcko has emerged. However, the Brcko government has yet to operate independently of the Supervisor and OHR or demonstrate self-sustainability. Further analysis of the predominant institutions within the District provides further insight into the complexity and ambiguity of the sustainability of Brcko's progress.

--- Chapter II ---

## FORCES IN BRCKO: DIMENSIONS OF EXTENDED ENGAGEMENT

In depth analysis of the forces working within Brcko reveals an intensive, extended engagement on the part of the United States. US military presence in the Posavina region leant Brcko towards a natural relationship with the US government for the recovery and transition process in diplomatic, financial and consultative forms. The reconstruction period developed such that US government financial assistance supported many projects in the form of direct government assistance and via government departments. As referenced above, the “Greenbook on US Overseas Loans and Grants” compiled by the US Agency for International Development (USAID) identifies four primary “instruments” of US government financial assistance: the Department of Agriculture, Department of State (DoS), USAID, and “other economic assistance.” Previously unspecified, this “other economic assistance” is comprised of such programs as Educational and Cultural Exchange Programs and the National Endowment for Democracy (both DoS), as well as the Peace Corps, Brcko Law Review Commission, financial support of OHR, and other active grant programs.<sup>52</sup> Since the war in the 1990s, government assistance to Brcko has been extensive on all accounts and varied in its delivery so it is difficult to get a clear picture of exactly how much has been invested in projects and personnel. Through personal interviews conducted for this thesis, the author received numerous estimates of combined forms of assistance totaling approximately 45 million USD from inception of the District through the year 2002.<sup>53</sup> Today’s total has ranged to sums of over 73 million USD in non-military forms of financial assistance over the past ten years.<sup>54</sup> Thus, the recovery of Brcko from a point of international concern to its current status

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<sup>52</sup> US Overseas Loans and Grants, Greenbook. <http://gesdb.usaid.gov/cgi-bin/broker.exe>  
Website Verification: 15 April 2006.

<sup>53</sup> This is an approximation considering USAID expenditure, USG grants and gifts and the salaries of government officials. This is not an official calculation.

<sup>54</sup> Interview. Matthew Parnish, OHR Legal Advisor. 15 March 2006.



as a leader through BiH in reconstruction and development holds potential to indicate the positive results that may be achieved through extended engagement.

As noted within in the Vienna Award, the PIC and Steering Board identified several targets within an anticipated progression of assistance allocation: infrastructural recovery, return of refugees and displaced persons, police reform, freedom of movement, local election and economic revitalization, among others.<sup>55</sup> These targets were achieved through the activities of four genres of development policy: civic administration and guidance, financial assistance and economic development, legal reform, and the development of infrastructure and administrative consulting. Each will be isolated in this thesis and analyzed for its effects on the sustainability and potential transferability in Brcko's reforms. Most distinct to Brcko was the institution of the Supervisory installed as a civil administration to offer guidance to the new local government.

### **Role of the Supervisor**

Most unique, perhaps, about the establishment of the Supervisor, was the time and imperative need for international supervision. The Tribunal, as they agreed, had no other choice. During the Rome it was recognized that:

Given ongoing failures to comply with the Dayton Accords in the RS area of the Brcko Opstina (particularly in terms of freedom of movement and the return of former Brcko residents to their Brcko homes), and the high levels of tension resulting therefrom, there is a clear need to establish a program for implementation of the Dayton Accords ... Since it is essential that the international community undertake a role in devising a detailed implementation strategy, the Office of the High Representative (OHR) is expected as soon as feasible, to establish an office and staff in Brcko under the leadership of a Deputy High Representative for Brcko (hereafter "Supervisor")<sup>56</sup>

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<sup>55</sup> Brcko Implementation Conference, Chairman's Conclusions. 7 March 1997.  
[http://www.ohr.int/ohr-offices/brcko/arbitration/default.asp?content\\_id=5328](http://www.ohr.int/ohr-offices/brcko/arbitration/default.asp?content_id=5328).

Website Verification: 15 April 2006

<sup>56</sup> First Award. Arbitral Tribunal for Dispute Over Inter-Entity Boundary in Brcko Area. February 1997.

The role of the Supervisor, therefore, is a diplomatic position mandated in the final arbitration with two-fold responsibilities. First, the Supervisor is to assist in the implementation of the Final Award of Brcko District and strengthen local democratic institutions to do so. Second, as a member of OHR, the Supervisor serves as the Deputy High Representative. The Arbitral Tribunal delegated numerous responsibilities for the Supervisor of Brcko District in each Award. Early responsibilities detailed cooperation with the two entities (RS and FBiH) in legitimizing the sovereignty of the District and coordination with local military presence<sup>57</sup> in confirming security of the District, aiding the refugee return process, recovering Brcko's infrastructure (returnee houses, schools, roads etc.). Robert Farrand was first of what would become a tradition of American Supervisors, each of whom offered a specialization pertinent to the needs of the District at the time.

#### *Tradition of American Diplomats*

The Supervisor of the District is a position traditionally held by an American Diplomat.<sup>58</sup> In his mission to secure and legitimize the District, Farrand's term hosted a litany of developments and reforms. The Supervisor took office on the 22 of March, 1997, and over the following three years was vested with increasing powers which he exercised strategically for the sake of returning stability to the District and beginning long-term reforms. First steps towards recovery involved infrastructural recovery, refugee return and a restoration of security forces in the District. Farrand worked closely with SFOR and IFOR troops to achieve and maintain sufficient security and commence refugee return. Additionally, he oversaw the appointment of the 29 councilors for the interim assembly (21 March 2000), the development of the police force, the appointment of police chiefs, the institution of the Brcko

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<sup>57</sup> At the time the Supervisor was instated International Military presence was American (SFOR). Troops later transitioned to IFOR presence and finally EUFOR, the current stabilizing force.

<sup>58</sup> The notable exception is the interim periods between the Supervisory terms of Gary Matthews and Henry Clark, and then again between Clark and current Supervisor Susan Johnson. Gerhard Sontheim, German diplomat and current Deputy Head of the OHR Brcko Final Award Office, held the position of *acting* Supervisor during these periods, DATE and DATE respectively.

Law Review Commission (BLRC) and the beginning of construction on judicial institutions.<sup>59</sup>

Farrand was a career diplomatic who brought a lifetime's experience in managing reconstruction in regions of ethnic tension; he was, in fact, on tour in Iraq serving as the Senior Inspector and Team Leader of the office of the Inspector General when he was invited to take the post as Supervisor of Brcko. Many who worked with Farrand in these early years of the District credit the progress made to his leadership.<sup>60</sup> In fact, the Chairman of the Brcko Law Review Commission (BLRC), Michael Karnavas, asserts in his Final Report that, "Supervisor Robert W. Farrand deserves the lion share of credit for providing leadership, vision and commitment to fully implementing the Final Award, insisting on maximum legal reform and recognizing the need to instill the Rule of Law as a means of establishing a stable and tranquil environment in the District."<sup>61</sup> Farrand had fulfilled his mandate by mid-May 2000. His successor would bring continuity to his efforts in legal, economic and social reforms as well as offer particular expertise in security.

On the 2<sup>nd</sup> of June 2000 Gary Matthews was appointed to the post from his previous post as the head of the OSCE office in Mostar. A former police officer himself, Matthews oversaw the integration and unification of the police force. Stabilization in the security of the District was an enabling step in welcoming back more than 5,000 refugees in the year 2000, an impressive number. Also, the transition of Brcko revenues from the payment bureaus of the Entities to the District was finalized during Matthews' tenure - this marked a major step in Entity recognition of the District initiated by Farrand. The introduction of the multi-ethnic secondary school system was introduced, though this effort met with belligerent resistance at first by the Ravna Gora Chetnik Movement, in September of 2000. Matthews term was short,

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<sup>59</sup> ICG Balkans Report, Bosnia's Brcko: Getting In, Getting On and Getting Out. 2 June 2003

<sup>60</sup> The author entertained numerous informal remarks made by attendees of the conference: "Brcko: Durable Model for Peace," hosted by George Mason's Peace Operations and Policy Program (POPP) on 18, 19 September 2005.

<sup>61</sup> Brcko Law Review Commission, Chairman's Final Report. 31 December 2001. Pg. 86

ending in late March of 2001, and the former Supervisor reported next to Kosovo. Henry Clark, a US Foreign Service Officer with an expertise in economic development, assumed the position of Supervisor of the Brcko District on 2 June 2000.

Henry Clark expertise was economics and he personally contributed to the creation of Brcko's Privatization process which has enjoyed extreme success relative to the dismal efforts at privatization in the entities and at the national level. Clark excludes a humble, approachable personality. A brilliant economic mind, his pragmatic nature and balanced and calculated problem-solving approach allowed him to navigate complex diplomatic scenarios and contribute more technical expertise. Clarke's own description of the decision to create a unique privatization process attests to his capability and leadership characteristics:

In my first months as Supervisor of Brcko, I learned a valuable lesson: economic revitalization in Brcko would fail, and the District's economic assets would be seized by Republika Srpska, unless I exerted forceful and independent leadership on the key privatization issues. I continued to offer to negotiate solutions with the Entities, but I could not assume there would be progress. Brcko had to proceed on its own, whether or not that stimulated the Entities into more productive negotiations. The Brcko international and local authorities had to work as a team—we needed both foreign and local expertise, legal advice and a lot of hard work to produce better policies and to implement them.<sup>62</sup>

Indeed he did lead a successful team effort to conquer the challenge of privatization, the first of many ventures he would take to invigorate the economy. Clark also initiated negotiations concerning Brcko's port potential which resulted in Sava River Commission. Further economic development was emphasized in the transformation of the maturing Arizona market, a former trading post which had become a troublesome site of trafficking in all forms.<sup>63</sup> Major attention was also directed to the further development of the judicial system, a process undertaken by the BLRC. While the Supervisor had exercised increasingly administrative powers throughout the early years of the District, Clark's non-intrusive

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<sup>62</sup> Clarke, Henry. *Brcko District: An Example of Progress in the Basic Reforms in Bosnian and Hercegovina*. Speech delivered for East European Studies (EES) at the Woodrow Wilson International Center for Scholars. EES Meeting Report 293. February 4, 2004. Page 11.

<sup>63</sup> Interview. Gerhard Sontheim. Deputy Head of OHR, Brcko Final Award Office. May 6, 2001.

administrative style complemented the progress achieved in the District to allow for the Brcko District government to assume a larger role in local governance.

I would not argue for giving an international Supervisor less power, but I found this power was most effective when held in reserve. In my two and a half year tenure I imposed only one law compared to hundreds imposed by the two High Representatives in that same period... The District's institutions would never become effective or permanent if the Supervisor alone made all the hard choices. My staff and I worked hard to persuade rather than force local institutions to act, even on matters essential to my mandate.<sup>64</sup>

With all the developments made in the first three years of the District, there existed an elusive element of a sustainable democracy which the District which District had yet to demonstrate: general elections. This test of democracy would not come until October 2004, under the vigilance of Susan Johnson, the fourth and current Supervisor. As with the previous Supervisor's, Johnson background offered expertise in the areas of concentration that OHR-Brcko would tackle during her term.

#### *Four Pillars of Today's Supervisor*

Susan Johnson is a political expert who has spent extensive time in states of the Former Soviet Union, Middle East and Balkans. Before arriving in Brcko as the fourth Supervisor of the Brcko District in January 2004 she served as the Deputy Chief of Mission to the US Embassy in Romania. Thus far, her tenure as Supervisor of the Brcko District has been marked by several distinct challenges. These include, among others: mentoring a newly elected District Government; priming the District for the withdrawal of the Supervisor; and, monitoring progress made in the rest of the District to decide exactly when the Supervisor will withdrawal. This final challenge - the decision of how long, exactly, the Supervisory regime will continue to play its role in the District - is what many consider the question of the hour. The withdrawal of international authorities and the reaction in the District will reveal how

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<sup>64</sup> Clarke, Henry. *Brcko District: An Example of Progress in the Basic Reforms in Bosnian and Hercegovina*. Speech delivered for East European Studies (EES) at the Woodrow Wilson International Center for Scholars. EES Meeting Report 293. February 4, 2004.

pervasive the progress made in Brcko has been. Indeed the timing of such withdrawal will be crucial, and there are standards which must be met before the Supervisor may consider the Final Award satisfied and the District ready for self-governance. Measuring conditions for the fulfillment of the Award is a relatively subjective process. To do so the Supervisor is monitoring four main pillars of success within the District. Gerhard Sontheim, Deputy of the Final Award Office, elaborates on these priorities of the current Supervisor:

- The *first* thing is there has to be assurances that state institutions, especially the parliament and the council of ministers, protect, under the Constitution of BiH, the self-governing status of the District as long as there are the two entities. That is the key element...
- The *second* thing, of course, is that the District institutions must be working “effectively and apparently permanently,” and we have some benchmarks there as well...
- The *third* thing is we have still legislation in place which is applied on either what used to be the RS part of the District territory or on the Federation part of the territory...
- The *fourth* thing is economic sustainability, which is difficult to achieve...<sup>65</sup>

These pillars set the stage for discussion of current priorities of US intervention and future ambitions.

In the first point Sontheim references he raises the question of how entangled the fate of OHR-Brcko is with the fate of OHR on a national level. Certainly, as Brcko is a branch of OHR, one may postulate that the Supervisory will remain in Brcko until a national government in Sarajevo is prepared to assumed complete self-government. The concern therein becomes whether or not BiH would be able to respect the sovereignty of the District. The placement of the District within the national structure, independent of OHR is still ambiguous. The Supervisor will be unable to coordinate a withdrawal, or even negotiate the maintenance of the current system with the entities until the fate of the national government is revealed.

The requirement that the District demonstrate its institutions are working “effectively and apparently permanently” before the Final Award may be considered fulfilled is a

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<sup>65</sup> Interview. Gerhard Sontheim. Deputy Head of OHR, Brcko Final Award Office. May 6, 2001.

somewhat paradoxical condition. One testament to the permanence of the District's institutions transpired with the October 2, 2004 local elections. Many feel the success of the moderate party indicates the substance of Brcko's democratic institutions. Many more, however, point to instances of corruption and inefficiency that remain in Brcko as red flags. Others still feel it is too early to judge such a new government. The interpretation of local elections is but one measure of "effective and apparently permanent" local governance. Many other will be addressed in ensuing chapters. The fulfillment of this criterion, therefore, falls ambiguously to the judgment of the Supervisor and subsidiary benchmarks.

In the third pillar Sontheim refers to the disentanglement of the legislation left by the Brcko Law Review Commission. Nearly 100 laws remain and the process has proven to be slower than the OHR expected and trodden with great difficulty. The section devoted to the BLRC will elaborate on the intricacies of OHR's methods of legal revision and the legacy left by the Commission. It is important to note, however, that as concerns legal and judicial reforms, Brcko's independent court and justice system is by far the most stable and progressive in BiH, perhaps all of the former Yugoslavia. Current Legal Advisor, Matthew Parnish emphasizes the strength of the judiciary and the importance of expanding its powers in order to fulfill the Final Award. "The courts are the most effective in BiH and probably the most effective institution in the District... The judicial is the best branch, so I'm in favor of loading up their powers." The success, or lack thereof, in doing so may direct the fulfillment of the Award and the Supervisor's submission for withdrawal.

The final pillar of economic revitalization presents an incalculable challenge to the Supervisor and her staff at OHR-Brcko. There are hardly elements of post-conflict reconstruction that don't contribute to economic growth, and equally so, the prevalence of economic opportunity holds the incentive for success or failure for all of Brcko. One such endeavor to expedite economic growth is the creation, funded by the US and directed by OHR-Brcko, of a Socio-Economic Council. This Council has since hired a consultant to

promote investment and determine where entrepreneurs and SMEs may be released from start-up costs. Other “instruments” of catalyzing economic growth are explored under direct US financial assistance. Indeed, efforts to foster economic growth have intensified since the establishment of the district. The ability to fund these efforts serve as one example of the benefits of an American Supervisor and the nature of US direct financial assistance.

*Effect of an American Supervisor on US Government Assistance*

No where is it written explicitly that the Supervisor *must* be American. However, as mentioned above, the predominance of American troops in the Brcko area gave way to American diplomats playing early and intense roles in the establishment and implementation of the District. The setting, that of American leadership fostering a European democracy, is thought-provoking. Its success is due, in part, to two factors of utmost importance. First, tireless efforts have been made to create a democracy and atmosphere applicable, specifically, to Brcko with the assumption of inevitable integration within the BiH, and Bosnia’s eventual integration into the EU. Second, the fact that the Supervisor has historically been American allows for US government assistance to flow more freely towards and destination and allow for a more ad hoc, locally-designed development and implementation process.<sup>66</sup> The liberty granted to those implementing US assistance has had much to do with their proven success.

This concept was surfaced during discussions at the OHR Final Award Office:

The social community work served as a model to the local administration for what they need to do to take care of the people in needy categories. We had this nice freedom to choose, of course every project was approved by State Department, but they didn’t question our choice because whether it’s aimed at reconciliation, return, sustainable economic development... it’s all been constructive. There was this money to use wherever this office felt necessary which gave us enormous ability to really step in and do what we think is most pressing at times - be it to fund and supply and demand survey, to bring in a consultant to push a package of laws that we felt were really necessary, or even to draft them because in many cases there was no local knowledge on something that was new as a concept.<sup>67</sup>

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<sup>66</sup> Interview. Gerhard Sontheim. Deputy Head of OHR, Brcko Final Award Office. May 6, 2001.

<sup>67</sup> Interview. Natasha Predojevic and Edin Agic. Economic Department, OHR Brcko. 25 April 2005



The nature of an American diplomat serving to foster the growth of a European democracy is certainly unique – the intricacies of which must be devoted to another work. The cornerstone of its success, however, is that much effort has been exerted in working to develop Brcko as a municipality compatible with BiH as a country, which in turn must involve coordination with the EU. Therefore, there are no elements of the progress made in Brcko that look prohibitively American – both European and US traditions have had a balanced influence in assisting BiH to develop as a member of the European community.<sup>68</sup> One example of such is the nature of the position of Mayor of Brcko. In that the Mayor holds great administrative power, the position resembles the American system, yet, in what may be considered a European influence, the mayor is appointed through the elected 29 member assembly rather than being directly elected.

Perhaps the allotment of US assistance to the District would still have been significant had the Supervisor not been American; the exceptional needs and special status of Brcko would have certainly remained equally demanding. However, it is not an uncommon opinion that as American diplomats were those that met the challenge of the role, future American investments had the dual purpose of aiding the District itself and supporting a region whose international presence was recognized to be predominantly American. Therefore, the implication of the Supervisor as an incentive for generous and lenient US government assistance has produced very positive results. A further benefit is the freedom to create a project locally and meet the needs of a community both as they are defined by that community and as they are recognized by the international community. will result in the most efficient and effective direction of international assistance. This topic is revisited in the overview of the efficiency of Quick Impact Funds (QIF).

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<sup>68</sup> Interview. Gerhard Sontheim. Deputy Head of OHR, Brcko Final Award Office. May 6, 2001.

### *Pattern of Project Emphasis*

The responsibilities incurred to each Supervisor are exemplary of the pattern of issues addressed by US government assistance. Initial assistance (before the District was recognized and formally announced on March 8<sup>th</sup> of 2000) was reconstructive; it focused on security, refugee return, and infrastructural emergencies such as water and electricity access, reconstruction of bridges, houses, etc. Security and basic living standards were, definitively, the first priority of Supervisor Farrand staff and an enabling step in the direction towards community development. Once these immediate needs were addressed, aid was turned to public works and local administration. A District Government was appointed and a team of consultants was funded by USAID aid in the “start-up” process. The sustainable functioning of local government administrations is but one of the current issues facing the Supervisor, development agencies and the District for which measurement is less quantitative. Others include the development of extensive, sustainable economic development and the fostering of democratic institutions. This pattern of addressing reconstructive, infrastructural and then sustainable development is visible here in direct US government financial assistance and the following chapter’s analysis of the work of USAID.

### **US Government Direct Assistance to the Brcko District**

All instruments of development covered in this thesis are forms of US government assistance. In the effort to illustrate and analyze the nature of US extended engagement in Brcko BiH many facets of such assistance must be explored. Though influenced, perhaps, by the security ensured by the Supervisor and implemented, at times, in a coordinated effort with USAID, this section intends to exemplify instances of direct financial assistance and the implications of the projects thereby enabled.

### *Brcko as a Benchmark for Progress*

The US Mission to BiH applies ten benchmarks for measuring progress; a satisfactory status for Brcko and the fulfillment of the Final Award is one of these benchmarks. The US Embassy estimates that American aid to Brcko, *excluding* the work done exclusively through USAID, was roughly two million USD a year from 1996 to present.<sup>69</sup> A wealth of projects have been funded through individual departments. Examples include as financial assistance on behalf of the Department of Treasury to the Economic Faculty in Brcko, opinion polls done by the State Department and donations and food programs made by the Department of Agriculture,<sup>70</sup> to name a few. Direct financial aid, however, predominantly falls under the SEED Act and the Quick Impact Fund (QIF). Passed in November 1989, the Support for Eastern European Democracy (SEED) Act is a legislative package enacted to “promote democratic and free market transitions in the former communist countries of Central and Eastern Europe.”<sup>71</sup> Through this legislation, the US government has provided funds to the OHR-Brcko which are then allocated to projects in the District appropriately. Because of Brcko’s special status and the responsibilities that fell to the Supervisor (an American diplomat at all times) the District received Quick Impact Funds (QIF) as early investments. QIFs were designed to hasten the first, large step in establishing the District government. Examples of SEED and QIF distribution will demonstrate the advantage gained in *local* project design and implementation enabled through US extended engagement.

### *Quick Impact Funds: First Responders*

The QIF funded projects focused largely on infrastructure and social programs to get the Brcko District back on its feet – a first responder, of sorts, to the scene of destruction. During early 2000, at the very beginning of the District, the priority was sustainable refugee

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<sup>69</sup> “The Future Has Begun.” Publication of the Government of Brcko District of BiH. Prepared by Muhamed Majukic and Petar Vasic. Second Reviewed edition released for March 8, 2004

<sup>70</sup> Ibid.

<sup>71</sup> 2002 SEED Implementation Report. U.S. Government Assistance to Eastern Europe under the Support for East European Democracy (SEED) Act. Bureau of European and Eurasian Affairs. January 2003

return. This objective necessitated action beyond simply reconstructing houses. It involved improvements in social benefits such as paving roads, to restoring basic public needs like water and electricity delivery,<sup>72</sup> to creating job opportunities and fostering business growth and “income generating projects”.<sup>73</sup> Administered by OHR, these QIF funds were broken down into micro projects that addressed the needs of the community as the Supervisor understood them and as they were communicated by the young Brcko District government. Projects through the QIF ranged broadly. They affected change as varied as enabling a returnee family to start a farm by funding the land, equipment, and startup capital to providing vital equipment to social institutions, such as walkers and medical equipment for a geriatric center or computers for a school. Natasha Prejedovic of OHR’s Economic Department explained the nature of these first funds as follows:

Natasha: At that time [the start of the District government], they had very limited resources to do the integration, the reform, the relocation, etc... so the United States government decided to actually use funds called the Quick Impact Fund (QIF).... the main purpose was for that fund to be utilized by the Supervisor in cases where the local authorities could not afford to do something because they’re going through this huge reintegration. I think the first amount we received was a little over a million dollars, and it was broken down into these, you could say, micro projects of maybe 15 -20 thousand USD per project. The main criterion was a social one; that is it would benefit all ethnic communities. If it is income generation that it should sustain them all, not just the person who is implementing the project, so that it has more of a social impact. We didn’t have rigid criteria because at that time it was kind of an *ad hoc* type decision making on the part of the Supervisor and staff.<sup>74</sup>

Clearly the availability of funds and local, ad hoc, project development expedited the initial process of recovery in the District. However, these early and generous fund may also have produced a stigma about the District that obstructs the transferability of Brcko’s reforms. Many outside observers attribute The District’s success only to extraordinary resources. To the contrary, infact, QIF funds dissipated as the need for reform evolved from emergency repairs to more long-term focused development projects. This will be explored further in the

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<sup>72</sup> This will be greatly detailed under the utilities work done by USAID and the District government.

<sup>73</sup> Interview. Natasha Predojevic and Edin Agic, OHR Brcko. 25 April, 2005.

<sup>74</sup> Interview. Natasha Predojevic and Edin Agic, OHR Brcko. 25 April, 2005.

chapter on transferability. As QIF funds became scarce, SEED funding often compensated. An example a product of QIF and SEED funds is Brcko's first supply and demand survey.

*Brcko's First Supply and Demand Survey*

Through QIF, and then SEED funding, OHR administered the first supply and demand survey for the Brcko District in 2003. This project lay at the macro end of micro developing, making a portfolio of what products were in demand in Brcko and how that demand was being met. A second survey was then conducted analyzing the extent to which the goods demanded were being produced. Results were released profiling the sectors within the market that were highly lucrative. Flowers, for example, a steady, predictable good with constant, high demand, are entirely imported.<sup>75</sup> Therefore, foreign investors and local entrepreneurs alike would be well-advised to enter this market. OHR-Brcko's Economic Consul, explains how this project is a reflection of a US funded cooperative project between OHR and the Brcko District Government with long-term benefit:<sup>76</sup>

One of the potential investors has actually cited interest in one of these areas, and we've already supplied him with this supply data which hopefully he will use to develop his potential business, because [product of potential investor's interest] was identified as one of the resources of Brcko District. So that's already paying off in terms of showing to this investor that Brcko District Government, or the cooperation, the collaboration between OHR and Brcko District Government, resulted in this quantifiable information. This was done by a team of expert professors, doctors, experts in their field, who went about to look for anything and everything to focus on what Brcko really has to offer.

This kind of project is an example of one that produces an enduring benefit for the Brcko District. As any economist would posit, reconciling supply and demand, in any market, is a fundamental step towards an efficient and self-sustaining economy.<sup>77</sup> The supply and demand survey is exemplary of the concept discussed in the effects of an American Supervisory making funds particularly available for distribution as deemed necessary by the

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<sup>75</sup> Interview. Natasha Predojevic and Edin Agic, OHR Brcko. 25 April, 2005.

<sup>76</sup> Interview. Natasha Predojevic and Edin Agic. Economic Department, OHR Brcko. 25 April 2005

<sup>77</sup> The survey described above is one of a number of projects that contributes to economic development in Brcko. Another project which speaks to this very principle is the Linking Agriculture and Manufacturing Project (LAMP). LAMP, like most locally implemented projects, is a USAID fund effort and will be addressed accordingly.

local authorities. Brcko, in turn, has become a more attractive site for investment because of the security offered by the Deputy OHR office. Modes of implementing government funding alternative to OHR administration have been through contracted consultants. Non-government implementers, therefore, have also been important instruments in reaching the targets of US development assistance.

#### *Non-government Instruments of US Assistance*

US assistance dispensed via contracting firms is common; funding given from the US Department of Agriculture to Mercy Corp. USA is one such example of this method. Since December 1998 Mercy-USA has been providing basic office software training programs to individuals in hopes to increase the “office/clerical and computer skills of trainees and thus their employability.” Over one thousand people have graduated since the inception of this program. Programs such as this are pivotal in encouraging refugee returns to an area such as Brcko District. Reforms and reconstruction on city institutions and practices may be done with the greatest of intentions, but without enabling families to garner skills that will generate jobs and income, return to war-torn areas would seem an economic impossibility. This support for returning families is not limited to technological training. “USDA grant money has provided over 6,460 displaced and returnee families in Brcko District with various agricultural inputs... and has trained executives and managers in the wheat milling industry and other agri-businesses... and further supported urban greening, reforestation and other environment-enhancing programs.”<sup>78</sup> Agricultural training offers dual benefit to the Brcko community. First, it arms the trainee with new skills and opens new job opportunities. Second, it encourages environmentally-friendly practices within community.

Environmental considerations were high in these first years as there was much incentive to pulling Brcko District towards the European standards. This held implications, also, for recovering businesses which were instructed to develop in an environmentally

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<sup>78</sup> “Economic Growth and Income Generation,” Bosnia and Herzegovina. Mercy-USA for Aid and Development.

friendly way so that their product would be marketable in a European market. This emphasis on an environment-friendly industrial sector is visible, today, in the questions surrounding the future of Tesla. Before the war, Tesla was a lead smelter with a lucrative business in exporting car batteries, mostly through European contracts with Volkswagen. Post-war reconstruction seeks reform the manufacturing system to affect positive environmental externalities and to incur, once again, the profit margin increase that may be found in the European market. This is exemplary of the emphasis placed on environmental safety by US implementers as aiding the development of the District towards European integration.<sup>79</sup>

Among the most widely enjoyed products of this emphasis on an environmentally concerned district is a beautifully kept public park stretching out from in front of the Economic Faculty to the District Court. Positioned inconspicuously next to a park bench sits a plaque with a quote from the first Supervisor, Robert Farrand made at the opening ceremony: “U Prirodi je Nada za Svijet”... In nature lies the hope of the world. This concept, and the emphasis of environmentally friendly reforms in early District years, is of great restorative value. It invests the community in the success of the District and offers a public space around which civic life may growth. The establishment of another such center of civic life lies in the construction of the District Court and a local school system.

*Brcko's "Prokleta Avlija:" Transforming the Former BRS Barracks*<sup>80</sup>

The aforementioned construction of the Brcko District Court is also a product of a particular package of SEED money delivered to Brcko by Madeline Albright upon the completion of the rebuilding of the bridge to Gunja. The bridge to Gunja was an early casualty to the fighting in Brcko. Once a link from Brcko to Croatia over the Sava River, its destruction by Serb forces on May 3, 1992 was a symbolic a practical blow to the city.<sup>81</sup> The

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<sup>79</sup> Tesla will be revisited when looking PADCO's effort at 'generating a business-friendly atmosphere'.

<sup>80</sup> "Prokleta Avlija" is the title, in the local language, of a short story by famous Bosnian author Ivo Andric. The work, in English, is translated into "The Damned Yard."

<sup>81</sup> War Crimes in Bosnia-Herzegovina. A Helsinki Watch Report, Human Rights Watch. New York, New York. August 1992. Pgs 94 and 95.

European Community undertook the effort to rebuild the bridge and at its ceremonial opening then Secretary of State Albright arrived in Brcko with a check for two million USD to be dedicated to future efforts of similar magnitude. As the Quick Impact Funds were depleted towards the end of 2004, it has been through this SEED funding that development was reinforced. The project undertaken with this money developed the dilapidated area of the BRS barracks (former JNA then RS military quarters) into the independent District Court and music and secondary schools.<sup>82</sup> A USAID Activities Coordinator was appointed to the District to oversee productivity of this considerable lump-sum.<sup>83</sup>

The transformation of former Yugoslav National Army barracks into the District Court and institutions of education are visible, tangible examples of US assistance through a SEED package on which OHR and USAID collaborated. It is exemplary of the effort to reinforce the infrastructure necessary for future reforms. Intuitively, before encouraging refugee return, it is necessary to establish a secure city, to rebuild houses, to fix phone lines and repair sources of electricity and water. Such a public infrastructure is equally imperative to economic revitalization. Yet infrastructural recovery is not limited to physical construction. It includes also, among other developments, the following reforms: executive and local government reform; comprehensive and enforceable civil and criminal codes to protect individuals; the establishment of public services and standards such as a functioning utilities department to monitor trash collection and public sanitation. This form of infrastructure is achieved, through no small effort, via legal reform and training. Though less visible, perhaps, to the untrained eye the impact of a firm legal foundation is undeniable. The achievement of these legal reforms was realized through the work of the Brcko Law Review Commission.

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<sup>82</sup> Pictures of the Court, schools and bridge to Gunja are provided in the picture page.

<sup>83</sup> Interview. Gerhard Sontheim. Deputy Head of OHR, Brcko Final Award Office. May 6, 2001.



--- Chapter IV ---

## LEGISLATING PEACE: THE BRCKO LAW REVIEW COMMISSION

With the District being a microcosm of BiH, it could become the incubator for political, legal, judicial and economic reform for the rest of BiH. The laws adopted thus far are progressive, well within the European Union standards, and easily transferable to the Entities. The judicial reforms of the District can serve as an example for the State Court and elsewhere in BiH. And, perhaps, the BLRC model of drafting legislation is worth considering for making similar reforms in BiH and in other post-conflict of transitional countries.<sup>84</sup>

Legal reform in the Brcko District has posed unique challenges and yielded particularly successful results, relative both to efforts made elsewhere in BiH and, on a broader scale, in all of the former Yugoslavia. Furthermore, the work of the BRLC exemplifies the importance of extended engagement by displaying both the value of mandating attention to such legal reforms and also the inefficiency that arose from the withdrawal of the BLRC before it satisfied its mandate.

When the District was first established and the Supervisor imposed, the status of legislation and legality within Brcko remained a web of interwoven Entity laws. While the Entities forfeited their administrative powers (“the legal effect will be permanently to suspend legal authority of both entities within the Opstina and to recreate it as a single administrative unit”), the Final Award also mandated that, “the laws presently applicable in the RS portion and the Federation portion of the Brcko Opstina will continue to apply in those areas until such time as the laws have been reviewed and harmonized and approved by the Supervisor or, with his approval, by the new District Assembly.”<sup>85</sup> This status, perhaps, was unavoidable - to have delayed declaring the status of the District until after legal separation was impossible. Yet, the irony of creating an independent District, free from the governing authority of either entity but bound by their legal impositions, typifies the common criticism of Dayton

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<sup>84</sup> Brcko Law Review Commission, Chairman’s Final Report. 31 December 2001. Executive Summary.

<sup>85</sup> Final Award of the Brcko District. Article IV, para. 39. March 7, 1999.

[http://www.ohr.int/ohr-offices/brcko/default.asp?content\\_id=5358#7](http://www.ohr.int/ohr-offices/brcko/default.asp?content_id=5358#7). Website Validated: 15 April 2006.

negotiations and Brcko arbitration that a cease-fire, not peace, was the product of negotiation. Ending a war is the first step to creating a peace, and admittedly these two processes are staggered. Just as the Dayton Accords ended the war in the region by negotiating terms of a cease-fire, the Final Award ended the wrangling over jurisdiction in Brcko by declaring a condominium. However, waging peace in the former Yugoslavia would necessitate far more than a cease-fire. Likewise, *legislating* peace in the District would be the target of the next stage of US extended engagement; the primary instrument in this legal reform process was the Brcko Law Review Commission (BLRC).

### **Mandate and Objectives**

In June of 1999 Supervisor Farrand oversaw the creation of the Brcko Law Review Commission (BLRC), a four person commission comprising one representative from the RS, two from FBiH and chaired by American lawyer Michael Karnavas.<sup>86</sup> The Chairman also acted as Executive Director of the BLRC Secretariat, a body composed of international lawyers and translators who serve as consultants and provide technical support. Its mandate was gargantuan: to create a new body of legislation consistent with EU standards and capable of promoting a transparent governance and economic revitalization. This task would require an overhaul of the criminal and judicial systems as well as the formative legislation required to structure a new autonomous Brcko District. In commandeering this effort, the BLRC identified five fundamental objectives for reform:

1. Strengthen the separation of powers between the three branches; of government (executive, legislative and judicial)
2. Increase public access to corrupt-free government institutions;
3. Strengthen enforcement mechanisms in order to promote transparency, accountability and uniformity in public services;
4. Strengthen the independence and professionalism of the Judiciary; and
5. Establish mechanisms to foster multiethnic governance and

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<sup>86</sup> Michael Karnavas is currently a prosecuting attorney in The Hague at the International Criminal Tribunal for the Former Yugoslavia (ICTY)

services throughout the District<sup>87</sup>

Toward the achievement of these targets, the BLRC had drafted over forty laws with numerous bylaws and germane regulations by the close of the operation on 31 October 2001. Additionally, the BLRC consulted the Supervisor and his staff on issues of privatization, taxation, customs, economic development and anti-corruption.<sup>88</sup> The experience of the BLRC and its contribution to development in Brcko is invaluable to considering the sustainability and transferability of the “Brcko model.” And again, as with the establishment of the Arbitral Tribunal and the District itself, addressing the procedure of the institution proves equally as constructive to maximizing gains from the BLRC as detailing its product. The remaining chapter, therefore, will address the following issues: *modus operandi* of the BLRC and lessons learned therein; legislation passed as it enabled infrastructural development of the executive, judicial reform, social reform and economic revitalization; the and the nature of the premature withdrawal of the BLRC and challenge of current legal reform.

### **Modus Operandi: Lessons of (Non)Working Groups**

The existence of the BLRC, in itself, speaks to the prioritization, on behalf of the authors of the Final Award and OHR-Brcko, to actively promote the rule of law. The Final Award left no ambiguity in requiring the Supervisor to oversee legal reform. Farrand’s commission, therefore, of the BLRC was an unquestionably necessary part of promoting progress in the District. The BLRC was an institution autonomous from the Entities and national government, funded exclusively from the US government and administered by the Supervisor, and later OHR. Operations, however, of the BLRC were not directed by the Supervisor. Rather, the procedure through which new laws were drafted evolved over time and in response to merit of different tactics attempted by the BLRC. The success, and failure,

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<sup>87</sup> Brcko Law Review Commission, Chairman’s Final Report. 31 December 2001. Executive Summary.

<sup>88</sup> Ibid

of different stages of legislative preparation is what may be particular value to those working on legal reform in Bosnia today.

### *An Engaging Draft Process*

The BLRC followed a basic procedure of engaging authorities and the local public through various stages of the legal reform process. Draft preparation included, to varying extents, meeting with consultants, polling the public, researching legal history and current legislation as well as coordinating with OHR - the process, on whole, was a comprehensive, multi-step system guaranteeing transparency from origin to ratification. After multiple rounds of research, comparative system analysis and drafting done internally by the BLRC, a draft was circulated within OHR and among germane national and international groups and experts. Pending their review, a “Final Discussion Draft” was submitted to government bodies within the District and reactions from citizens and politicians solicited.<sup>89</sup> In the case of some laws, the BLRC commissioners would be consulted before the final draft was submitted to the District Assembly’s Legislative Committee. While the Assembly members and the Mayor were required *in legis* to debate the draft and vote on the legislation, the Supervisor retained the *de facto* right to override the process if the Assembly failed to act within a “reasonable time” constraint.<sup>90</sup> Complex as it may seem, this thorough process which engaged all citizens of the District, “added to the integrity of the BLRC’s aims by demonstrating first-hand the benefits of having a transparent drafting process.”<sup>91</sup> Indeed this aspect of the legal reform process (the practice of local engagement and transparency) is transferable. Yet, the BLRC’s empowerment of the Supervisor reveals a truism of the risk in over reliance on untrained parties. The commission’s initial effort to rely so steadfastly on the progress of external bodies (be they local or international) had indeed been problematic. Often times soliciting the input of external parties made the process so cumbersome that progress seemed impossible.

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<sup>89</sup> Brcko Law Review Commission, Chairman’s Final Report. 31 December 2001. Pg 13.

<sup>90</sup> Ibid. Pg 14.

<sup>91</sup> Ibid. Pg 12.

This is most apparent in the attempt of the BLRC in their early months to utilize “Working Groups” for basic drafting.

*Lessons and (Non)Working Groups*

The reality of legal reform in the District was that resources were limited, impending reforms were mounting and the drafting process was tedious - the commission had been given a cumbersome assignment to manage in a time-sensitive, controversial environment. The BLRC first attempted to remedy this situation by referring to working groups of national and international experts.<sup>92</sup> While the BLRC retained power to debate the content of the laws under consideration, groups organized by their legal specialization were given the decision of the BLRC and expected to draft early legislation by an assigned deadline. The productivity, however, of these working groups proved terribly inefficient. Deadlines were not met and, more often than not, the product was unsatisfactory or inconsistent with prior work. Karnavas emphasizes the cost of this method in his Final Report, “The first six months of the BLRC were more or less unproductive because of the out-sourcing approach used, i.e., the reliance on Working Groups.”<sup>93</sup> The BLRC remedied its ways and made the respective recommendation to other legal bodies managing reform at the national level to be wary of this approach. The reception of this suggestion was underutilized and will be addressed further. The early experiences of the BLRC which offered an opportunity to learn were not, however, limited to mistakes.

As demonstrated in the drafting process, the BLRC worked in “close partnership with the District Government, Assembly, political parties, national and District experts and members of the Judiciary.”<sup>94</sup> Dialogue produced from this interaction was then employed in the drafting process. Equally valuable was the effort to solicit the input of citizens via public hearings. This care and consideration in being addressing the case-specific needs of the

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<sup>92</sup> Brcko Law Review Commission, Chairman’s Final Report. 31 December 2001. Pg 10.

<sup>93</sup> Ibid. Summary.

<sup>94</sup> Ibid. Pg 86.

institutions and citizens of the Breko District permeated other aspects of the drafting process. Particularly, the BLRC did not rigidly hold to one process for the drafting of all legislation. In Judiciary and Court Administration Reform the BLRC employed a “coordinated strategic approach, requiring implementation to be carried out at every level simultaneously” rather than identifying one aspect of reform at a time (eg: salary inadequacies, judicial selection discrepancies, etc.).<sup>95</sup> This flexibility allowed for the BLRC to work most efficiently with a process specific to the legal reform at hand. Yet the Commission had its relative difficulties and there were instances where a different course of action, even one that had been successful for the Commission once before, could have ameliorated the drafting of more sensitive laws. The BLRC Chairman himself has identified areas where tactics that the BLRC itself had taken on previous reforms could have been applied to ensuing problematic areas. One such instance was identified in the drafting of the Law on Primary and Secondary Education.

The objective of the Law on Primary and Secondary Education was to integrate the three different systems of Breko’s Serb, Croat and Bosniak communities. As this law held implications for the safety of children, it was met with much anxiety from parents who were understandably concerned about this potentially hostile environment. BLRC went to great lengths to be as “inclusive as possible during the drafting phase,” however a heated debate inevitably concentrated on the contents of the law, the prohibition of activities, discrimination and favoritism, the use of symbols on school property, school curricula and the use of language.<sup>96</sup> The Chairman cites two major flaws in the process of drafting this education law, the latter of which, perhaps, could have been anticipated:

- “It was premature to draft the Law prior to the drafting of the curricula and attendant by-laws and regulations. Concerned District residents repeatedly asked how the Law would be implemented... Being unable to give concrete answers to these questions only increased the suspicions of many parents who were of the opinion that OHR was engaged in a social experiment with their children;

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<sup>95</sup> Breko Law Review Commission, Chairman’s Final Report. 31 December 2001. Pg 50.

<sup>96</sup> Ibid. Pg. 63.

- “The undeniable anxiety of the parents and educators could have been alleviated had there been a strategy to implement gradual changes through the impositions of a series of Supervisory Directives or orders... the Law would have emerged with all the regulations and curricula in place, and with greater appreciation and acceptance by parents.”<sup>97</sup>

Karnavas explains that the latter procedure of soliciting Supervisory orders had been utilized before and was successful in quelling the fears of refugees and returnees during the drafting of the Law on Return of Abandoned Properties. Further, he discerns from this specific example “the importance of engaging the residents of the District, early and often, in discussions pertaining to matters that relate to their socio-economic welfare.”<sup>98</sup>

### **Legislating Sustainable Reform: Origins and Transferability<sup>99</sup>**

Accomplishments of the BLRC were pervasive and they composed legal reform related to the following aspects of life in the district: *executive authority and assembly procedure* reform such as tax administration, budget procedure, and the return of abandoned property; *judicial reform* including criminal procedure, criminal codes, the handling of misdemeanors and prosecution of organized prostitution and human slavery; *social reform* as in labor law, health insurance law, and laws on education; and finally *economic legal reform* such as ownership and property rights law, laws on enterprises and registration of land and laws on bankruptcy. Each category of reform has proven thus far to be equally influential in ushering change into the District. Furthermore, each demonstrates either a strong potential for transferability to regions of similar profile and pedigree or inspiration hailing from legislation in other post-conflict or transitional territories, a handful of laws display both qualities of transfer and origin. The transferability of a law of origin to Brcko may indicate the feasibility of applying a Brcko in a setting of similar scope. Therefore, each legal instrument will be addressed with emphasis on its origin and potential applicability.

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<sup>97</sup> Brcko Law Review Commission, Chairman’s Final Report. 31 December 2001. Pg. 65

<sup>98</sup> Ibid.

<sup>99</sup> A table of all the laws drafted by the BLRC and subsequently adopted by the District Assembly is available

*Executive Authority and Assembly Procedure*

Laws related to the functioning of the Assembly, the administration of executive power and the implementation of the Final Brcko Statute have proven fundamental to ensuring transparency and accountability in governmental practices. These types of reforms are prerequisite to many others because, not only do they establish institutions and procedures for bodies that will initiate change in the District, but they also foster confidence in the public to embrace newly reformed institutions. Many laws of this nature were adaptations of reformed Entity laws and legal traditions from states of the former Yugoslavia. The Law on General Administrative Procedure for the District, for example, was inspired by the comparable law in the present day Former Republic of Yugoslavia. This is not to insinuate, however, that novel concepts were not introduced to this branch of public administration. To the contrary, numerous changes were made that have streamlined government processes and served to generate funds crucial to the functioning to the District.

Reforms range from minute details such as requiring the Committees of the General Assembly to keep minutes (encouraging transparency) to a complete transfer of the authority to interpret regulations passed by the Assembly from the Commission to the Judiciary. This latter reform is thought to be “perhaps the most innovative change from previous practice.”<sup>100</sup> Jurisdiction of the Mayor, as mentioned earlier, was also increased. Laws on the Police, consistent with laws relating to other new institutions, were focused highly on increasing transparency and accountability in what would be a very controversial institution. The Laws on District Revenue Agency (DRA) and Tax Administration Agency (TAA) have provided the “fundamental framework through which transparency, accountability and supervision over the District budget are achieved.”<sup>101</sup> The primary responsibility of the DRA is to act an impartial agency free from political coercion responsible for guaranteeing all government

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<sup>100</sup> Brcko Law Review Commission, Chairman’s Final Report. 31 December 2001. Pg 17.

<sup>101</sup> Ibid. Pg 22



expenditures are approved by the Assembly. The establishment of the TAA, though “the subject of debate within OHR,” has proven most financially beneficial and savvy for the District. Without exception legal framework was commensurate with the spirit and requirements of the Final Statue. The opinion of numerous, current OHR employees interviewed for this research is that the legal reforms effecting the Districts government’s authority and procedure have fostered increased transparency and accountability in the District and are imitable in other municipalities in BiH.

### *Judicial Reforms*

Reforms related to the District’s newly established Judiciary contributed to the creation of what many believe to be the “strongest branch, institution in fact, in the District” and among the most legitimate judiciary institutions in the former Yugoslavia.<sup>102</sup> Infrastructural laws concerning the composition of the courts and a judicial commission, the content of the code of ethics and the establishment of a Prosecutor’s Office<sup>103</sup> provided structure to Brcko’s judicial branch. Regarding specifically the composition of the Judiciary, the BLRC often referenced the experience of the unification of the judiciary between Germany and East Germany.<sup>104</sup>

Reforming the criminal justice system included identifying and analyzing problematic characteristics of former Yugoslav and Entity systems as well as borrowing from more successful systems. For example, Entity systems detail a very limited role for the prosecutor in initial investigation of crimes, leaving the power of police relatively unchecked. Further, the Entities granted equally invasive power to an “investigatory judge” whose role in initiating investigation on behalf of the courts interfered and hindered the potential for the prosecutor to develop a working relationship with the police. Brcko’s criminal justice system remedies this

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<sup>102</sup> Interview. Matthew Parnish, OHR Legal Advisor. 15 March 2006.

<sup>103</sup> “an independent body whose sole function is to impartially prosecute criminal offenders, economic crimes and specific misdemeanors”. Supra 101.

<sup>104</sup> Brcko Law Review Commission, Chairman’s Final Report. 31 December 2001. Pg 51.

problem. The origins of the reforms which affected this change are varied throughout the EU and indicate a highly replicable legal transition:

Though several European countries have dispensed with the role of the investigate judge, the primary inspiration for a replacement for the investigate judge came from the Swedish system, and, to a lesser extent, the German system... Similar reforms are being suggested for the French Criminal Procedure. The inspiration for the court/trial procedure is from the criminal procedure used in the International Criminal Tribunal for the former Yugoslavia.<sup>105</sup>

Similarly, the Laws on Misdemeanors and the Criminal Code are grounded in the legal format of the Tuzla Canton and RS respectively. In closing recommendations, the Chairman recognized the transferability of these reforms and encouraged the use of the experience of the BLRC and replication of the Brcko model:

The Law on Criminal Procedure would serve as an excellent model for the State Court.... Another poignant example [of transferable Brcko reforms] is the Law on Civil Procedure. The BLRC was able to produce a progressive draft based on an existing discussion draft which the national experts were involved in drafting.<sup>106</sup>

Reforms which have also been theorized as similarly transferable to other parts of BiH have been those targeting economic recovery in the District; these have been equally fundamental to the progress made in the District. Two sets of laws are particularly deserving of attention. The first, the Law on Ownership and other Property rights and the Law on Register of Land and Rights to Land, ameliorated the transition of the District from a socialist economy to a budding capitalist economy. The second, the Law on Enterprises, Law on Register of Enterprises and Entrepreneurs, and the Draft Law on Privatization of Strategic Enterprises, worked to improve both the economic systemic transition and the ability of individuals to cultivate their own economic opportunities.

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<sup>105</sup> Brcko Law Review Commission, Chairman's Final Report. 31 December 2001. Pg 36.

<sup>106</sup> Ibid Pg 88.

### *Economic Legal Reform*

A previous section on direct US government aid explained that QIF funds from the US government were directed towards the effort of inviting foreign investment into the most effective market industries of the District. Many of the economic legal reforms worked towards this same end. They sought to invite internationals and engage citizens in the most efficient maximization of Brcko's economic opportunities. The BLRC recognized the importance of these reforms from the beginning, and understood the specific rights that must be granted to property owners to ensure generate economic activity in the District:

Ownership of real property and rights derived therefrom, pledges of movable assets, and the right to perform economic activities in the capacity of legal persons were instruments that needed to be perfected in order for the District to make the transition into a market-oriented economy sufficiently attractive for investors.<sup>107</sup>

Intuitively, the greatest obstacle to this task was the inadequate or incomplete records that had been accumulated over the past four decades; the BLRC, therefore, aimed to draft legislation mandating transparent registration of property ownership accountable to its citizens. Other crucial innovations included the transition from a "permanent right to use land" to the "construction right," vesting more permanent power in the property owner.<sup>108</sup>

In drafting the Law on Enterprises and Register of Enterprises and Entrepreneurs the BLRC relied heavily on Slovenian Law and US Corporate law as resources to institute constructive reforms. Obstacles arose, in some instances, when the BLRC felt the District would not have the resources to monitor and enforce these laws, particularly as silent partnerships breached the Entity borders. Yet legal modifications concerning the organization of enterprises, companies, personal liabilities, business books and annual reports have all proved successful thus far in reform the structure of enterprise and entrepreneur registry. In fact, as with the reform in the Criminal Code, Brcko's reforms have been revolutionary by

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<sup>107</sup> Brcko Law Review Commission, Chairman's Final Report. 31 December 2001. Pg 70.

<sup>108</sup> Ibid. Pg 72

any standard, “The Law incorporates, with certain simplifications, “state of the art” standards typically found in US corporate laws.”<sup>109</sup> The process of expediting the registration of entrepreneurs is vital beyond tangible economic measure. It instills empowers the citizenry to create their own economic opportunities and dictate their own futures. The importance of engaging the public is prevalent through Brcko’s reform and will appear again with USAID local governance reforms. Legal reform is prerequisite to other economic developments, but indeed it must be complemented by further reforms in other areas of civil life.

While the above economic legal reforms contributed to the transition from a socialist to a market economy, they were not exhaustive in the sense of privatizing all Brcko public holdings. The Draft Law on the Privatization of Strategic Enterprises, for example, was undertaken by the BLRC but left uncompleted. Per dictum of the Final Award:

All public properties within the District shall be administered by the District Government, which shall have the authority, with the approval of the Supervisor, to privatize public property in accordance with applicable BiH law. No public property in the District may be disposed of except in accordance with BiH law and with the approval of the Supervisor.<sup>110</sup>

The draft law proposed a method resembling a public auction “based on the international tender concept ... used in East Germany, Estonia and elsewhere.” With the objective of maximizing profits for the District, “the goal was to attract strategic investors that are willing to invest in enterprises in order to get them operational, competitive and economically sound.”<sup>111</sup> However, the considerations which complicated the completion of this draft law were not exclusively legal. Brcko’s road to a complete, and novel, privatization process involved weighty political risks. Managing these risks was the arduous task entrusted to Supervisor Henry Clarke.

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<sup>109</sup> Brcko Law Review Commission, Chairman’s Final Report. 31 December 2001. Pg 75.

<sup>110</sup> Brcko Final Award, Annex. Para 12. August 18, 1999.

<sup>111</sup> Supra 109. Pg 74.

### **Brcko's Unique Privatization Process**

People in Brcko, remembering that Yugoslavia had been one of the more prosperous parts of Eastern Europe before the 1991-95 war, were clinging to the hope that privatization would bring their companies back to life, create jobs and restore their standard of living. Even if they were too optimistic, it was nevertheless clear that the effort to revitalize the companies had to begin as quickly and effectively as possible.<sup>112</sup>

Privatization held the potential to create economic opportunity in the District; as with any such possibility, it attracted early and intense public scrutiny. Compounding this element of social pressure on the process were the conflicting (yet equally unsuccessful) privatization models in the Entities. These varying models involved issuing vouchers (as in the RS) and certificates (as in the Federation) which allowed citizens to claim shares in privatized companies. Both were complicated processes and neither would maximize the opportunity privatization presented to revitalize the economy in Brcko. Supervisor Clarke, a trained economist, was the one to recognize this and spearhead a more appropriate reform effort.

As Brcko's Supervisor, I could not justify adopting this [the Entity] model given my mandate to revitalize the economy. I believed Brcko needed a model that would give real control of each company to a private buyer or buyers with the capacity to revitalize it. I hoped we could develop a model that would encourage potential buyers to compete with each other on the basis of their investment plans.<sup>113</sup>

To begin building a Brcko model of privatization Clarke issued a series of Supervisory Orders in September of 2001 that established a District Privatization Office, a Tender Commission for privatization, and created a legal foundation for carrying forward with strategic privatization of Brcko businesses.<sup>114</sup> Detailing the privatization process requires advanced economic expertise and lies outside the focus of this thesis. For the purpose of appreciating the origin and potential transferability of the privatization process it will suffice to identify the primary objective of the model. Clarke and the Brcko District sought economic growth through

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<sup>112</sup> Clarke, Henry. *Privatization in Brcko District: Why It Is Different and Why It Works*. East European Studies at the Woodrow Wilson International Center for Scholars. Washington DC, April 2004. Page 6.

<sup>113</sup> Ibid. Page 8.

<sup>114</sup> Ibid. Page 11.

privatization by empowering the company owner and increasing private investment. This approach was high risk and perhaps prioritized economic activity and productivity over sheer employment increase. However, it proved to be the perfect prescription for economic growth in the District. “Economically, the emphasis on investment was exactly what Brcko needed to restart the companies and to build a vigorous private sector.”<sup>115</sup> A graph in the Appendix charts the companies that had been privatized and their investment and employment statistics through the year 2004.

### **Limitations and Premature Withdrawal**

While the progress made by the BLRC was impressive in size and content it was not an operation exempt from complications. The BLRC was initially intended to be an operation autonomous from the entities; it was funded, exclusively, by a 1,000,000 USD grant from the United States government and initially administered by the Supervisor. However, as reported by the Chairman in the Final Report, the transfer of the administration of funds from the Supervisor to OHR-Sarajevo compromised and complicated the integrity of the mission. BLRC’s chairman reported that “some work of the BLRC was often delayed, and at times obstructed, by the former Head of the OHR Finance Department, who on occasion would reject or delay expenditure requests authorized by the Supervisor for the BLRC.”<sup>116</sup> It is clear that even before the contentious termination of the BLRC cooperation with international parties working towards legal reform in Brcko could have been more constructive. This disjuncture between principle actors limited the BLRC and hampered Brcko’s legal reform .

### *Unheeded Advice*

A return to the critique on the Working Groups offers insight to an early example of how the operations of the BLRC were underutilized. The dysfunction of this attempt to

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<sup>115</sup> Clarke, Henry. *Privatization in Brcko District: Why It Is Different and Why It Works*. East European Studies at the Woodrow Wilson International Center for Scholars. Washington DC, April 2004. Page 15.

<sup>116</sup> Brcko Law Review Commission, Chairman’s Final Report. 31 December 2001. Pg 8.

“outsource” the drafting process is in no way understated in the Chairman’s Final Review. To the contrary, inefficiency and highly problematic nature is a point of emphasis. However, Working Groups remain the primary tool of OHR for pre-drafting legal reform today regardless of its inefficiency. “The lack of an overall strategy, coordination and cooperation within OHR is the single greatest contributor to the lack of any meaningful or sustainable legal and judicial reform in BiH.”<sup>117</sup> This harsh opinion is not exclusive to the BRLC, a 2001 report by the ICG on reform coordination offers little improvement upon this review:

Reshaping (‘recalibrating,’ in local jargon) the international community (IC) presence is vital if the peace process is to have a successful outcome. This presence is the result of ad hoc expansion since the Dayton Agreement... It is beset by five main problems: lack of shared strategic vision; uncoordinated leadership; duplication and lack of communication; personality clashes and cross-cutting institutional interest; and ineffectual management of economic reform.<sup>118</sup>

The first two problems mentioned in this ICG report are embodied in yet another clash between the BRLC and the IC concerning the lack of support given to the newly established Office of the Public Prosecutor in Brcko for a series of anti-corruption cases. Corruption among federal officials has long been of great concern in BiH. One objective, therefore, of legal reform in the District was to arm the public with the ability to prosecute abusers. The IC and OHR have vocalized great support for these developments in Brcko and have praised their successes. However, in its Final Review, the BLRC reports incongruence between the enthusiasm with which OHR and the IC preach anti-corruption and their respective actions:

Though anti-corruption rhetoric is a constant theme for OHR and the IC, they have been reluctant to act on the request. The lack of support from the IC and the resulting lack of progress have greatly impacted the credibility of the prosecutor’s Office. It must be emphasized that the IC’s failure to exert pressure on the relevant government institutions to respond appropriately, sends a message that certain individuals are protected and above the Rule of Law.<sup>119</sup>

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<sup>117</sup> Brcko Law Review Commission, Chairman’s Final Report. 31 December 2001. Pg 87.

<sup>118</sup> International Crisis Group (ICG) Balkans Report No 121. *Bosnia: Reshaping the International Machinery*. 29 November 2001.

<sup>119</sup> Supra 117. Pg 56.

The Final Report of the BLRC recommends collaboration between the IC, OHR and the Brcko District Government to institute an Anti-Corruption Unit. Such an institution would support the Office of the Prosecutor and bolster effort to route corruption from the administration of the Brcko District. Upon completion of this thesis, an Anti-Corruption Unit, or an institution resembling such, had yet to be established.

### *Obstacles from OHR*

Further examples of conflicting objectives are visible in limitations placed on the BLRC that kept it from working entirely autonomously. Such limitations are best exemplified in the obstacles encountered in drafting Brcko Labor Laws:

In certain areas, the BLRC was prevented by OHR and the IC from proposing necessary changes in the Law so as to avoid making the District substantially more attractive to potential investors than the RS and the Federation. Nonetheless, given that the District is competing for private investment capital with other eastern European countries, such as Poland, the Czech Republic, and its progressive neighbor Slovenia, the BLRC drafted a labor law that minimized, where possible, the amount of workers rights in order to induce foreign investors to consider investing in the District.<sup>120</sup>

The neglect of the District by international finance organizations stems, perhaps, from the conflict of District and national economic interests. The BLRC Final Report references a specific example in the World Bank, IMF and IC effort to establish BiH as a “single economic space.” Karnavas explains that this concept would, in practice, “inevitably bankrupt the District,” an egregious injustice against the District which is already enduring the handicap of exclusion from World Bank loans availed to Entities and national governments.<sup>121</sup> Certainly, this status is in conflict with the recommendation of the Final Award for “financial support from international donors such as... the World Bank.”<sup>122</sup> This is not the sole example of conflict arisen from origins within the Final Award. The premature withdrawal of the BLRC also alludes to disparity in actions of the IC and OHR and the mandate of the Final Award.

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<sup>120</sup> Brcko Law Review Commission, Chairman’s Final Report. 31 December 2001. Pg 57

<sup>121</sup> Ibid.

<sup>122</sup> Ibid.



### *An Unfulfilled Mandate*

On the 31<sup>st</sup> of October, 2001 the Supervisor, under heavy influence from OHR, dismantled the Brcko Law Review Commission. Many laws remained unchanged and available funds could have provided for several more months of operation.<sup>123</sup> The termination of the Brcko Law Review Commission prior to the completion of legislative reform left the BLRC with the impression its mandate was not fulfilled; others found ambiguity within the Award for the timing of the close of the Commission. Those who believe the longevity of BLRC's mandate was ambiguous in the Final Award cite the responsibility of the Commission to create a set of legislation that could replace existing Entity laws *on their respective sides of the IEBL*. It may be intuited, therefore, that when OHR dismantled the IEBL in 2001, the BLRC had reached its natural end. The timing, however, of the IEBL dismantlement was not meant to undermine legal reform or legal efforts in the District. To the contrary, among the primary justifications for abolishing the IEBL when it did was the need for OHR-Brcko to approach the process of privatization in a non-discriminatory manner. Only one of the businesses to be privatized lay on the Federation's side of the IEBL. Therefore, as pressure for privatization mounted, the Supervisor had to absolve the IEBL to approach all business from neutral ground, rather than viewing them as either RS or Federation companies.<sup>124</sup>

Regardless of whether or not the premature dismantling of the BLRC was "contrary to the letter and spirit of the Final Award,"<sup>125</sup> the fact remains that termination of the BLRC left the District in a position less able to complete such legal reform. The current Deputy Head of Office has confirmed this observation, "We're still struggling with the issue. Seems now that we have a list of laws that still needs to be done by mid next year. It's a perfect example that

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<sup>123</sup> Brcko Law Review Commission, Chairman's Final Report. 31 December 2001. Pg 9.

<sup>124</sup> Clarke, Henry. *Brcko District: An Example of Progress in the Basic Reforms in Bosnian and Hercegovina*. Speech delivered for East European Studies (EES) at the Woodrow Wilson International Center for Scholars. EES Meeting Report 293. February 4, 2004. Page 7.

<sup>125</sup> Brcko Law Review Commission, Chairman's Final Report. 31 December 2001. Pg 87. The author holds reservations in embracing the tone of the Final Review too enthusiastically because the report of another reliable source (an anonymous interview within OHR for these purposes) maintains the BLRC was resolved due to personality clashes between the Chairman of the Commission and members of OHR and the IC.

premature withdrawal of parts of the IC postpones resolution of problems only that could have been resolved much earlier, in a more efficient and more cost effective manner.”<sup>126</sup>

The experience of the Brcko Law Review Commission is a valuable insight to the benefits of extended engagement and the costliness of premature withdrawal. The approach of US extended engagement is what allowed for the establishment of the BLRC from the start. Appreciating that other US led reforms would be impossible without a proper legal foundation, the United States had an added incentive to invest in a competent and thorough legal revision process. Furthermore, conduct of the BRLC in the drafting laws which were completed displays another example of the advantages of extended engagement. Because the BLRC was active for as long as it was, it gathered “best practices” from some legal drafting and observed and rectified errors made in others. The collective understanding of how best to approach legal reform in the District was the result. Had the BRLC been limited in its funding or jurisdiction this benefit would have been lost. For example, had the District not been active in drafting laws for refugee return it could not have anticipated the profitability of the Supervisory Orders in handling sensitive legal issues. In another example, had the District only had a six month mandate, it would have been time, money and opportunity wasted entirely by the use of Working Groups. As the case stands, the BLRC learned from their inefficiency and has advised OHR against an equal such unproductive process. Reciprocally, the premature withdrawal of the BRLC is self-evident testimony to the potential gains that could have been made given the Commission a lengthier period of operation.

The BLRC was an indispensable instrument in laying the legal framework for the District. Where once only a cease-fire existed, the BLRC legislated the road towards peace, reconstruction, reconciliation and revitalization of the District. It has been demonstrated how the role of the Supervisor and instruments of direct US financial assistance have contributed

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<sup>126</sup> Correspondence. Gerhard Sontheim, Deputy Head of Office, OHR-Brcko. 10 March 2006.

to this effort. But to form a complete picture of US extended engagement in Brcko it is necessary to turn to the innovations and implications of the work done by USAID.

--- Chapter V ---

## USAID: FROM HAND-HOLDING TO HANDING OVER

US Agency for International Development is the primary implementer of US foreign assistance. Their role, therefore, is paramount in any instance of US extended engagement. While all aspects of US assistance contribute to the broader goal of self-sustainable recovery for the District, USAID compliments the work of the aforementioned development efforts and addresses the daily challenges to this objective. Where the Supervisor oversees government operation in the District, USAID contracts the implementers who are physically present in the *Dom Vlada*<sup>127</sup>. USAID is responsible for the projects which institute novel government practices and assist the local officials in implementing them. Similarly, while US direct government assistance funds innovative measures such as the supply and demand survey, it is USAID projects like the Linking Agriculture and Manufacturing Project which aid local workers in redirecting their production to the most efficient industries. Finally, USAID guides the exercise of the legal innovations in the District. For example, the BRLC drafted the necessary legal foundations for streamlined budget operations, but USAID contractors work with the local government to insure the efficiency transition from former systems of budget operations to reformed methods. One USAID employee explained that where Brcko citizens and officials understand the reforms being made, USAID implementers provide the experience of those who have enacted such reforms. Therefore, USAID projects demonstrate the practical success and challenges encountered in US extended engagement in the District

The analysis of USAID project offers insight even beyond that of daily operations. Intuitively, the targets of USAID are consistent with those enumerated in discussion of the work of other facets of US engagement in Brcko. The prioritization of projects assumed by USAID contractors, therefore, displays the same pattern of emphasis demonstrated in previous chapters. Through analysis of the operations of throughout the three year mandate of

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<sup>127</sup> Dom Vlada refers to the newly renovated administrative building, pictured in the appendix.

the contracted District Management Team (DMT) and their successor the Planning and Development Collaborative (PADCO) one may observe a the shift from concentration on infrastructural recovery to the establishment of institutions to, finally, the active promotion of transparency and accountability within government operations. Also apparent within each of its projects is the emphasis USAID implementers have placed on the importance of public engagement and self-sustainability to the reforms that affect. Finally, the observance of USAID projects and practices reveals shift from an administrative, “hand-holding” role to a relative handing over of responsibilities of the local governance to the District Government.

Each chapter thus far has demonstrated the role and significance of a specific aspect of US extended engagement in the District. Understanding the projects of USAID is crucial to completing the picture of Brcko’s development. The objective and accomplishment of USAID may best be illustrated in the elaboration of the operations of DMT and PADCO. Appreciating the role of USAID in the broader picture of US extended engagement, however, begins with an overview of the agency.

### **Origins and Operations**

Since 1991 the US government has directed over one billion USD to the countries of the former Yugoslavia. The United States Agency for International Development (USAID), an independent government agency, is the primary implementer of that aid and the US foreign assistance program.<sup>128</sup> Though established in 1961 by President John F. Kennedy with the passing of The Foreign Assistance Act, USAID traces its roots to the Marshall Plan and post WWII reconstruction. Under the general policy advisement of the Secretary of State, USAID offers support worldwide for economic growth, agriculture and trade, global health, democracy, conflict prevention and humanitarian assistance.<sup>129</sup>

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<sup>128</sup> Bosnia-Herzegovina Program Overview. US Agency for International Development. <http://www1.usaid.gov/pubs>. Website Verified: 15 April 2006.

<sup>129</sup> USAID Homepage. Source: [www.usaid.gov/about\\_usaid](http://www.usaid.gov/about_usaid). Website Verified: 15 April 2006.

USAID operates primarily by contracting with companies through one of two methods: tender advertisement for a chosen project or the selection of applicant proposals for a project that suites the particular mission of a specific USAID branch. In the former, USAID recognizes the need for a project, sets a tender, holds an auction and selects the implementer from a pool of bidders. The latter requires an implementing firm (consisting typically of private businesses, international organizations, and NGOs) apply to USAID for a project and, upon receiving a contract, execute and design the job. In Brcko, project and implementer selection have typically developed as follows: USAID establishes the need for a program (organizing the objectives, budget, timeline, etc.), issues a tender for that program, receives applications from various implementing organizations and awards the tender to a selected candidate. In varying instances implementing companies or organizations have more leeway to design projects. For example, the second major contractor in Brcko, PADCO (the Planning and Development Collaborative), has been active in both implementing and designing projects in the northern BiH quadrant.<sup>130</sup>

USAID's activity throughout all of BiH connotes the transferability of many of its operations. Most projects are organized into four main categories: Economic Transformation, Democratic Reform, Re-establishment of Multi-Ethnic Society and Cross-Cutting Programs.<sup>131</sup> Over the past six years USAID has contracted with Development Advancement International to coordinate projects in the District. DAI has done so through two implementers with three year contracts each: the District Management Team (DMT) ran from 1999 to 2002 while the Planning and Development Collaborative (PADCO) operated from

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<sup>130</sup> Interview. Richard Robertson, Team Manager of PADCO. 22 April, 2005.

<sup>131</sup> Economic reform generally entails fiscal and financial sector reform, private enterprise development, and legal and regulatory reform and privatization. Democratic Reform includes reform in media, political processes, legal systems, civil society (NGO development) and local governance. The third category incorporates programs working towards re-establishing access to basic services, improving economic self-sufficiency and institutional training and the final category, Cross-Cutting Programs entails participant training, anti-trafficking and anti-corruption. To fulfill these objectives USAID has completed a plethora of projects in Brcko; many of the early efforts have an emphasis on infrastructure such as the reconstruction of the railroad, the station, the bridge from Brcko to Gunja, Croatia. Further description of each of these objectives is provided in the Appendix in USAID's BiH Overview. Provided, also, is a full database of the USAID funded project in Brcko between the years of 1996-2001.

2002 to 2005. Exploration of the District Management Team (DMT) mission will provide the insight to what tactics were uniquely successful in Brcko during its earliest years, which hold the greatest potential for sustainability, and which may be applicable to other local governments in BiH.

### **The District Management Team**

On September 30, 1999, shortly following the issuance of the Final Award by the Brcko Arbitration Council, the DMT was instated to assist in the establishment and guidance of the first appointed Brcko District government. DMT's duty was to serve as a mentor during these early years, providing "technical advisory assistance in the 'start up' phase of the District and to continue work through a three year contract ending on September 30, 2002."<sup>132</sup> DMT Chief of Party William Sommers identified five primary reform objectives:

1. Consolidation, rationalization and legalization of the District Governments functions and service
2. Improve Districts' personnel management and performance
3. The planning and initiating of an economic development program for Brcko
4. The establishment of sound and transparent budgeting and financial management operations
5. Enhanced transparency and accountability of government in Brcko<sup>133</sup>

These initial targets were not exclusive. Throughout DMT's tenure they would also provide technical assistance to OHR-Brcko, aid in the integration of the public education system and play a pivotal role in the development of the public utilities department.<sup>134</sup> Such accomplishments were achieved through instruments of reform which fell into three categories. Team leader Sommers recognized these to be the following: structural innovations, reform in the access and equity of District government, and improved services and delivery. Through its three years of pursuing reform in these genres DMT's mission

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<sup>132</sup> "Brcko District: Experiment to Experience." William Sommers, Chief of Party, DMT. April 2002.

<sup>133</sup> Rosenbaum, Allan. *Building Equitable and Effective Local Governance in a Complex Ethnic Environment: The Case of the Brcko District Government*. Prepared for the 10th Annual Conference of the Network of Institutes and Schools of Public Affairs of Central and Eastern Europe. 2001. Pg 5.

<sup>134</sup> These included, among others, providing technical assistance to OHR-North, aiding in the integration of the public education system and developing the public utilities department.

made a shift from “hand-holding” with the first government through the initial period of establishment more towards *handing over* the weight of decision making and program execution once the administration found its stride. The extent to which this transfer proves to be successful will determine the sustainability of the District’s progress.

### *Structural Innovations*

Structural innovations refer to the practical measures taken to consolidate three, prior governments into one, multi-ethnic administration. The Brcko District was created from the consolidation of the governments of three ethnically-based communities: Brcko town, Brcko Municipality and Ravna Brcko.<sup>135</sup> From these three contentious governments the District inherited nearly 3000 employees dispersed throughout 50 government institutions. DMT assisted in the advertisement and application process to fill the twenty-nine vacancies created, ten new departments and a new Tax Administration Agency (the previously mentioned, OHR debated TAA). Brcko District government received 8,118 applications, interviewed 7,400 and filled 2,456 positions – indeed a cumbersome and labor intensive task for a budding administration.<sup>136</sup> Selecting the government, however, was merely the first step in what would be a complex process of fostering a transparent District government accountable to its citizenry. To aid in this process, the appointed government was also granted the experience of a two week trip to Jackson, MS, paid for and administered by the US Government, to witness the workings of an established of local government. The general opinion of those engaged in these consulting efforts is that the “combination of working so closely with DMT and the learning experience in Mississippi was very effective.”<sup>137</sup> Onsite training is not unique to the Brcko Experience. However, in impending considerations of how transferable the approach taken in Brcko, it is important to note that the *duality* of this consulting was exceptionally

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<sup>135</sup> Rosenbaum, Allan. *Building Equitable and Effective Local Governance in a Complex Ethnic Environment: The Case of the Brcko District Government*. Prepared for the 10th Annual Conference of the Network of Institutes and Schools of Public Affairs of Central and Eastern Europe. 2001. Pg 3.

<sup>136</sup> “Brcko District: Experiment to Experience.” William Sommers, Chief of Party, DMT. April 2002

<sup>137</sup> Interview. Gorljub Ljubljjanovic, Former Head of the Department of Utilities. 27 April 2005.



costly and a provision made to address the extraordinary challenges facing the young government.

*Engaging the Public: Innovations in “Access and Equity”*

The second category of USAID instruments worked to achieve two vital characteristics of local government systems: accessibility and accountability to its citizens. DMT’s work to improve public engagement is particularly visible in four basic manifestations: The Citizens’ Complaint System, Passport Issuances and Vital Statistic Registration and Public Hearings. The emergence, also, of the “one-stop-shop” under PADCO is a continuation of reforms in access and improved public services. The public hearings referenced below are of recent date; DMT, therefore, was not physically present in Brcko. However, the current realization of such dialogue between public and government is testimony to the sustainability of reforms in access and equity. They exemplify the fact that the principles established by the DMT and the Brcko District Government between the years of 1999 and 2002 that have endured to present.

The Citizen’s Complaint System, activated in November 2000 and fully functional by the start of 2001, received 1,883 logged complaints in its inaugural year. In 306 cases the Appellate Board (the complimentary judicial institution of the Complaint System) overruled in favor of the citizen; half of the cases were decided by the board to be factually unfounded.<sup>138</sup> The system is a two part innovation which requires, first, a complaint system be established and, second, an appellate board be legislated the authority to address the complaints. “Of the two procedures the Citizen’s Complaint System is the more easily transferred to other communities... the appellate procedure, while equally important, is a bit more difficult to install [in that] it requires a law or operating order by the administrative or legislative authority in the local municipality.”<sup>139</sup> Naturally, the opportunity for citizens to

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<sup>138</sup> “The Brcko Experience: Innovations in Local Government.” A Paper Organized by the Brcko District Government in Cooperation with the District Management Team. July 2002.

<sup>139</sup> “Brcko District: Experiment to Experience.” William Sommers, Chief of Party, DMT. April 2002.

express their concerns via this system is an improvement in government access. Yet, the long-run effect of this innovation will be determined by the consistency with which citizens are engaged. If complaints are neglected, this institution may have a negative effect.

The protection of a citizen's identity and civic integrity is a stepping stone to ensuring human rights protection and other elements of a democratic society (voting registration, for example). An emergent independent state working to surmount a history of ethnic conflict and destructive nationalism should place high priority on maintaining the integrity of civil statistics. Therefore, Brcko's customs services and passport distribution is of utmost importance. Yet, it was not until 2001 that the Passport Unit was established. Since then, with the aid of an electric passport issuance unit funded jointly by DMT and GTZ (the German Development Agency)<sup>140</sup> over six thousand passports have been issued. For the insurance of quality protection of vital statistics, DMT worked with the United Nations Development Program (UNDP) to install a computerized network which connected the Department of Public Records to the thirteen other field sites in Brcko District. Ranging from marriage licenses to birth and death certificates, this project expedites the handling of voluminous amounts of paperwork, improving efficiency and customer service. Sommers stresses that "the value of this improvement is almost beyond estimate."<sup>141</sup> Identity is a complex concept in Brcko and all of Bosnia and Herzegovina - regions where civic, ethnic and national loyalties have often clashed in a violent manner. The transparency of the registration and protection of vital statistics is a measure which not only improves government accountability but also augments, perhaps in a subliminal manner, the level of public security in the District.

Public hearings of the present style are an infant tradition of local governance in BiH. Nursed in the District with the objective of nurturing accountability and transparency, public

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<sup>140</sup> In addition to the work done by USAID, OSCE, GTZ the Swedish International Development Agency as well as development agencies from Norway and Japan have been active in BiH.

<sup>141</sup> Supra, 138.

hearings engender credibility for Brcko's local government. They play a dual role in both informing constituents and soliciting suggestions for ongoing projects. Prime examples of the latter function are the public hearings for the Brcko District Capitol Needs Budget mentioned earlier. The product of these hearings is an impressive compilation of 573 amendments being considered for this year's budget, patiently awaiting judgment in the pleasantly pink and recently remodeled, *Dom Vlada*. Every amendment is closely considered, and each that fails to make the budget will be dealt with in a written explanation to the citizen.<sup>142</sup> This process is a valuable one in fostering a dialogue between local governments and their constituents. This too is a procedure that is intensive in sincere effort rather than physical capital. Another recent civil hearing was called for the discussion of Police Reform and held on the 21<sup>st</sup> of April, also at the *Dom Kulturi*.<sup>143</sup> As the topic concerned public security, the turn out was sizeable (100 people throughout the speech) and vocal. The presentation, given both by an OHR spokesman and a officer with EUFOR forces, lasted little more than half an hour, after which time a series of questions ensued. The question and answer portion of the presentation was particularly insightful in that people raised concerns over Brcko's integration into BiH. These topics will be revisited in the chapters on sustainability and transferability.

#### *Public Utilities: Improving Services and Delivery*

The third category of reforms identified by DMT director Sommers was the improvement of service and delivery. At the time of DMT's inception public services in the District were in a most deplorable state: power, phone and water lines were operational only on a select and sporadic basis. The challenge to improve these services fell largely to the newly created Department of Utilities whose responsibilities encompassed the management of electric generation and distribution, water services, water waste and sanitation. DMT began collaboration with the Department of Utilities which would be continued by PADCO and permeate all services provided by the Department. Examination of the cooperation between

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<sup>142</sup> Interview. Petar Vasic, PR of Brcko District Government. 27 April 2005.

<sup>143</sup> The Dom Kulturi is the primary center for civic activity and local government events.

the Department of Utilities and USAID contractors paints the picture of an evolving relationship; one from which sustainable and potentially transferable reforms may be deduced. DMT and PADCO have worked diligently with the department and the transition of the USAID contractors from playing a “hand-holding” role to truly handing responsibility over to the government is evident, particularly in the provided graphs of the waterworks (Voduvoda) program.<sup>144</sup> An assessment (done by the Utility Department) of the situation for the advertisement of the tender and a prospectus for District’s needs was matched with potential improvements to create a portfolio around which applicants for the ‘Voduvoda’ tender could construct a project. This situation was as follows:<sup>145</sup>

Year 2000 (year of study) -	number of citizens: 85,000
	- total capacity: 190 l/s
	- water distribution to 60% of population
	- water quality : 74% without potable water
	- organization: 19 systems (copious and problematic)
	- water for industry: no water for industry
Utility Dept. Objective (2005)	- total capacity: 510 l/s
	- water distribution to 100% of population
	- water quality: 100% potable
	- organization: an efficient 6 systems
	- water for industry
	- remote control system

A DMT technical representative, the head of the Water and Waste sub-sector of the Utilities Department, a representative from the Budget and Finance Department and a resident engineer from Brcko sat on the evaluation panel.<sup>146</sup> A local implementing firm was subcontracted for the project which was scheduled to run from 2002 to 2004. From the outset USAID donated one million KM.<sup>147</sup> This USAID funding, however, was available only through 2003. As the project was scheduled to run through 2004, the Brcko District Government incurred the cost upon USAID’s exit. Evidence, perhaps, of the District growing

<sup>144</sup> Graphs of the funding transformation for Utilities projects are provided in the Appendix.

<sup>145</sup> “Brcko Distrikt Water Supply System” as reported by Brcko District Department of Utilities. 2001.

<sup>146</sup> “The Brcko Experience: Innovations in Local Government.” A Paper Organized by the Brcko District Government in Cooperation with the District Management Team. July 2002.

<sup>147</sup> A scheme of the funding transition is available in the appendix.

into its own.<sup>148</sup> DMT's initial role in consultations and the "design and build" evaluation process was significant, and USAID's startup donation of one million KM was an enabling step towards reaching the estimated budget. The ability of the Public Utilities department to incur the expense of this project when US funds were not longer available is, perhaps, symbolic of a strengthening of the District. Further, the presence of a local engineer on the selection panel and the use of a local implementing firm displays the important characteristic of public engagement.

While the government was evolving, it still required guidance. While DMT's mandate ended in September of 2002, PADCO's mandate commenced immediately, maintained many of the same objectives, and worked with many of the same instruments, as were prioritized under DMT. Additionally, PADCO's jurisdiction was extensive and allowed it to operate in other localities of northwest BiH. This fact, and PADCO's introduction of new projects, demonstrates progress in the transferability of reforms enacted in the region and the graduation of the District to a more independent status, with new needs and challenges.

### **Planning and Development Collaborative**

After DMT finished its contract in Brcko, USAID announced a tender for a government accountability project. The project would be based in Brcko, but operational throughout the Northern quadrant of BiH. The Planning and Development Collaborative (PADCO), again under the umbrella organization of DAI, won that tender and has since worked in Brcko and throughout northern Bosnia on the Local Government Support Activity (LGSA) project. Local government support includes, among other things, an emphasis on transparency in government and communication and coordination between departments – both high among the development priorities in articles 18 and 21 of the Final Award.<sup>149</sup> Many of these LGSA projects are a substantive continuation of the structural reform by DMT.

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<sup>148</sup> Interview. Gorljub Ljubljjanovic, Former Head of the Department of Utilities. 27 April 2005

<sup>149</sup> Interview. Richard Robertson, Team Manager of PADCO. 22 April, 2005.

PADCO's portfolio consists of the following: carryover projects such as maintaining progress within the Utilities Department, and the One-Stop-Shop; new targets and instruments such as reformed public administration and the Agricultural Incentive Project; and finally, an ever-constant emphasis on improvements that contribute to economic growth.

*Consistent Objectives: Improved Services and Increased Access*

PADCO has continued to work on the water treatment plant. Public Utilities have much improved since the establishment of the District: roads have been repaved, trash collection is more efficient, and electricity is reliable. In fact, Brcko now boasts *two* internet cafes, one even guarantees a tour de Aerosmith's Greatest Hits almost once a day. However, much progress remains to be done: hot water occasionally fails, potable water has yet to reach residents' homes and telephone lines still don't operate in some neighborhoods.<sup>150</sup> The cleaning of pipes throughout the District is expected to be finished by 2006 and responses to the tender for a second water treatment plant are currently under consideration.<sup>151</sup> This projected deadline and the fact that the Brcko District itself has begun to absorb the cost of these water utilities projects (directing a near quarter of the budget to the department)<sup>152</sup> are heartening indicators of sustainability. Still, many are concerned with the future of the Department given diminishing international financial support.

Another project of emphasis that falls under the jurisdiction of the Utilities Department is the development of the landfill system in Brcko. There are two ominous problems with waste disposal in Brcko District. First, the current land fill can neither absorb all of the trash from Brcko, nor is it currently operating in an environmentally friendly

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<sup>150</sup> Here it is important to break from data analysis and take note of the standard of living that the state of public services implies. How does a city encourage population growth (or even retention) without water treatment and telephone lines? How would it protect public health without reliable water in the homes of all its residents, even those too old/weak to carry jugs of water every day? How would it encourage economic growth and create opportunities for its youth without internet and telephone lines? Brcko residents have adapted; most rely on cell phones and make do with available services. However, the status-quo is still striking for a European country 11 years beyond conflict.

<sup>151</sup> This statement holds true as of May, 2005.

<sup>152</sup> Interview. Gorljub Ljubljancovic. Former Head of the Department of Utilities. 27 April 2005.

manner. Second, the sewage system is an environmental and health hazard due to the flow of damaging chemicals and industrial waste into the Sava, a potential source for the second water treatment plant. PADCO has actively supported the Utilities Department in addressing these challenges. At present, a feasibility project has been done for reforming the sewage system and a study of other recycling systems has been performed. As with the development in the water treatment plant, the effort to improve waste disposal in the District is one that has been increasingly shouldered by Brcko officials. Gorljub Ljubljancovic has played a key role in investigating potential alternatives for waste management, compiling reports and presentations for the District Government based on research and observations made at numerous sites in Austria.<sup>153</sup>

While major roles in these improvements have been adopted by Brcko officials, PADCO is still very active in advising the government on more habitual tasks. Richard Robinson, team Manager for PADCO, describes the work within public utilities as fundamental to the general objectives of the mission:

The continuation work is to try to work with OHR and to help them [the Brcko District Government] with the day to day management issues that come up in the government, and to advise the department head through them and the mayor on implementation of things on a day to day basis... like landfills for example. The water treatment plant, as well, we're expanding.<sup>154</sup>

In addition to maintaining a focus on the improvement of public services, PADCO has assumed new methods and goals for local governance reform

#### *New Instruments, New Targets*

One of the most significant accomplishments made in local governance through the collaboration of PADCO and Brcko official is one which has, in fact, already been applied in other municipalities throughout Northern BiH. The introduction of "One-Stop-Shops" is a concept aimed at making the local government as user-friendly as possible. These shops have

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<sup>153</sup> Interview. Gorljub Ljubljancovic. Former Head of the Department of Utilities. 27 April 2005.

<sup>154</sup> Interview. Richard Robertson. Team Manager of PADCO. 22 April, 2005

proven to be primary instruments in working toward the target of ‘improved services and delivery’ identified by Sommers. This endeavor has involved centralizing and simplifying, in the most transparent manner possible, all official processes that require a citizen’s use of local government – from marriage licenses, to property and business registration, to official documents procurement. Tanja Mihailovic, a former DMT employee now working on another DAI funded project (GAP, Government Accountability Project), explains the convenience of this institution:

It is like having one place for an application to get a permit, or other typical services in the local government. The way it was organized before people would have to go from door to door, now it is all in one hall, one room. There are people around that are much more organized working with top programs, like for data tracking for example. So actually, you also streamline procedures and you can be able to provide them with information at any moment for what is the status of their documents. So citizens, whatever they need, they have only to go to a one-stop-shop. This is a really good thing.<sup>155</sup>

PADCO’s Local Government Support Activity (LGSA) has provided much of the infrastructure for these one-stop-shops: financially providing for construction work, equipment, computers, and other technical assistance. Beyond infrastructural efforts, PADCO has a financial advisor who works in implementing budget and administrative innovations and simplifying the process to make it more transparent.

The work that has been done between the local government and PADCO is considerable, yet one challenge to transparency remains unaddressed: the question of degrees of autonomy between public administration and political parties. There are functions of the civil administration that, for the sake of consistency and accountability, must be held outside the government so that security and standards of living are not vulnerable to the fluctuation of local political powers. In a developing democracy still earning its credibility it is ever more important that an independent and formidable public administration guarantee security and

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<sup>155</sup> Interview. Tanja Mihailovic, former DMT employee. 16 April 2005.



public utilities. Deputy Head of OHR-Brcko explains the importance of a move towards a public administration:

The aim is to have an administration that runs in the country irrespective of what the political leadership is at that time. There was a presentation of public administration reform that they have done in a number of Eastern European countries. And one of the gentlemen came up and said look, you have to think of public administration as the fourth power in the society. It's the executive, the legislative, the judiciary, and then you have public administration. It is a little bit exaggerated, but there's an awful lot of truth in it, saying that public administration even needs to be able to stand up to the political leadership.<sup>156</sup>

A current project undertaken by the European Commission has concentrated on the development of such a public administration. Another means through which public administration is being developed is through a contract funded by the Brcko District government with Deloitte-Touche-Tohmatsu. By the end of this year the firm is expected to contribute a design of a more "streamlined, reduced public administration."<sup>157</sup> The fact that the District Government is adopting these projects and operating more independently (all be it, at times, under heavy persuasion from OHR), is another indicator of sustainability.

### **Emphasizing Economics**

In Brcko, as with other regions of ethnic conflict, it is economic conditions that have sparked the atavism of latent conflicts. Economic recovery, therefore, is generally recognized to be a prerequisite, and later stimulant, of development. Though this truism is often clouded by other theories, it is boldly recognized in a report by the ICG. "The principle reason why relative stability, normality and multinational tolerance have come to reign in Brcko is that the District's economy has out-performed those of the entities."<sup>158</sup> It should come as no surprise, therefore, that DMT and PADCO (as well as most other implementers of reform in Brcko) have placed a strong emphasis on economic revitalization. Analysis of three projects which spanned the mandates of DMT and PADCO illuminate various efforts to catalyze economic

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<sup>156</sup> Interview. Gerhard Sontheim. Deputy Head of OHR, Brcko Final Award Office. May 6, 2001.

<sup>157</sup> Ibid.

<sup>158</sup> ICG Balkans Report, *Bosnia's Brcko: Getting In, Getting On and Getting Out*. 2 June 2003

growth in the District. The creation of a Brcko Economic Development Strategy and the revitalization of the Arizona Market were major foci of DMT. While PADCO assumes a monitoring role for these projects, it also heavily prioritized initiating the Agricultural Incentive Program (AIP).

#### *Brcko Economic Development Strategy*

The creation of the Brcko Economic Development Strategy (EDS) was the product of cooperation between the Brcko District Government, DMT and the EU funded Regional Development Office (EURED). DMT and EURED covered different aspects of the compilation; DMT executed an assessment of development potentials as identified by the District's Commission for Economic Development while EURED performed a socio-economic audit of the District government. Both were complete by June 2001 and the Brcko Economic Development Strategy was approved by the District government on 14<sup>th</sup> of December 2001.<sup>159</sup> The ten-point strategy as provided by the government publication "Brcko: The Place to Be" reads as follows:

1. Expand Brcko Job Market
2. Emphasize increased development of Brcko's public infrastructure
3. Actively encourage the growth of Agriculture and Forestry
4. Market Brcko as the commercial "crossroads" for CEE
5. Increase District's technology capabilities via a clear action plan
6. Create a friendly tax environment for business
7. Develop small and medium enterprises
8. Develop and implement an urban master plan for the District
9. Increase funding for the improvement of District schools
10. Streamline construction and business permitting processes<sup>160</sup>

This EDS included several objectives were already addressed through the mission of USAID contractors and other international instruments of reform. Two specific examples of more recent DMT and PADCO projects that have generated economic opportunity are the restoration efforts made in Arizona Market and the implementation of the Agricultural Incentive Program (AIP) in Brcko and across northern BiH.

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<sup>159</sup> "The Brcko Experience: Innovations in Local Government." A Paper Organized by the Brcko District Government in Cooperation with the District Management Team. July 2002.

<sup>160</sup> "Brcko: The Place To Be." A Brcko District Government Publication. 2003.

The Arizona Market is a space maybe 15 km from downtown Brcko that it a historical trading point. In the post-war years of the mid 1990s it degenerated to a state of problematic and unregulated underground business.<sup>161</sup> As trafficking of commodities, drugs and eventually people became frequently, the District realized the need for drastic measures. Discussion over how to handle the market swayed from destroying the grounds to transforming it into a regulated, functional trading post that could serve to catalyze further economic development in the area. DMT worked with the District government in reaching the decision to “bid out” the development of the project. The joint Italian-Bosnian venture Italproject undertook the effort and has since created three thousand jobs at the market which now filters anywhere from two to five thousand customers through the center on an average weekend.<sup>162</sup> Arizona Market is often cited as a great success story in economic revitalization in the area and its rehabilitation has been strongly encouraged and supported by the Brcko District Government and OHR. In Arizona Market, a center of economic opportunity evolved from a hotbed of crime and corruption. The benefit to the District’s revenue and employment availability must be coupled with the acknowledgement of how costly a neglect or mismanagement of Arizona may have been. This transformation is perhaps one of the greatest testaments to the positive externalities of US extended engagement.

The Agricultural Incentives Program (AIP) is another such example of employment-generating development work. PADCO’s assistance with the implementation of AIP in Brcko is an example of a project that was inspired by the success of similar reform in other municipalities in northwest BiH. The USAID sponsored Linking Agriculture and Manufactures Project (LAMP) operates throughout the MND quadrant; it has been successful in maximizing the agricultural resources of the greater Posavina Region: the agricultural

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<sup>161</sup> Arizona Market attributes its name to the assignment by American military personnel of familiar titles for local streets during the post war occupation. The market from a popular site for road side, impromptu vendors to more widely recognized magnet for trafficking of a wide variety of goods (pirated CDs, DVDs, drugs, etc.). When it was reported that the “market” was a magnet for the trafficking of people, outside forces were no longer able to avoid confronting Arizona. Refer to other articles in this collection for further detail.

<sup>162</sup> Interview. Vlado Matijevic, Italproject. 20 April 2005

industry. LAMP-inspired AIP works from a budget of two million KM to encourage farmers in the cultivating of fruits, cereals, medicinal herbs, livestock and apiculture.<sup>163</sup> While AIP is provided for in the budget of the Brcko District government, the implementation plan was not detailed in government policy. PADCO therefore, has been aiding in the actual, hand-on realization of an agricultural program. Richard Robertson details the role that PADCO has played in implementing this agricultural program:

Who gets it [agricultural incentives], why do they get it, how is it regulated, how is it paid back, how is the money then accounted for and is it going into a revolving fund, setting up urban development programs or incubators... A hands-on implementation strategy. A lot of people in the region have heard of the concepts, what they don't have is people with background in actually doing these things. We're not doing it for them, but helping them through the process. That's been [our] role in Brcko.

Local government support fostering economic growth is not limited to agriculture; PADCO has also worked with the Brcko District government to foster the development of small and medium-sized enterprises (SMEs). The one-stop-shops mentioned earlier are fundamental in making the process simpler for those entrepreneurs looking to establish businesses in the Brcko District.<sup>164</sup>

The various subdivisions and departments effected by the work of the two USAID contracted development teams are enumerated in the Brcko District Publication, *The Future Has Begun*.

The valuable partnership between PADCO and the Brcko District resulted in the extension of assistance in many fields that are of vital importance to the citizens of the Brcko District. Special attention was paid to the water supply, the waste collection and storage system, the Information Technology Subdivision, the Personnel and Salary Sub-division, the Budget and Finances Department, the Revenue Administration and the Urbanism, Spatial Planning and Economic Development Department... Improvement of the water supply system, the Solid Waste Storage Program and the personnel programs will remain priorities of PADCO.

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<sup>163</sup> "The Brcko Experience: Innovations in Local Government." A Paper Organized by the Brcko District Government in Cooperation with the District Management Team. July 2002.

<sup>164</sup> Interview. Richard Robertson, Team Manager of PADCO. 22 April, 2005.

The value of collaboration between USAID contractors and the Brcko District Government has been illustrated through the impact that the above listed projects have had on the lives of Brcko's citizens. However, the long-run benefit of these reforms will be determined by their sustained operation rather than an instantaneous measure of success. The challenges to sustaining these reforms are substantial. They are a test of the integrity of the reforms and the intentions of the inheritors of progress made thus far. They are, more over, matters of the ephemeral nature of the place and time of development work.

### **Durability and Extended Engagement**

While local government assistance made a smooth transition from the hands of DMT to PADCO, the transition to self-sustainability poses greater challenges. The Brcko District Government will be left to stand on its own, administering and maintaining the established public services as it sees fit. This pivotal transition time, as PADCO closes its contract, is an ideal time to analyze the durability of the reforms made in Brcko. The durability of reform efforts is a concept of both time and space. The post-conflict developments that occurred in Brcko were devised under the constraints of these two dimensions: they were tailored to fit the needs of the *space* of the Brcko District, and they were fashioned for the specific *time* of immediate post-conflict recovery and systemic economic transition from 1996 to present. It is reasonable to assume that reforms which may stand the test of change in one of these elements may not persevere the transformation of another. A reform in the structure of the education system, for example, may be dependant enough on the chemistry of the people and practices in the District that it proves durable over time but not feasible for imitation elsewhere. Another reform, such as unique innovations in tax collection, may not endure in Brcko because of integration into the national Bosnian system but may prove to be successful in an entirely different location. The distinction emphasized here is the difference between the *sustainability* and *transferability* of reform.

The implications of the sustainability and transferability of development reforms are primary arguments for acknowledging the inevitability that any responsible, invasive intervention will result and an extended engagement. Though varying in degree and capacity, extended engagement is required to ensure the sustainability of the reforms targeted by intervention. The subsequent benefit of this extended engagement to both the implementer and the host community is the discernment of transferable “best practices”. The value of a mobile best practice to the implementer is self-evident; it improves the efficacy and efficiency of future engagements. Best practice equally valuable to the host community in what it reveals about reaction of the community to development effort and the characteristics required in successful reforms. Even the initial failure of a reform can benefit that very host community if extended engagement insures the revealed best practice is implemented.

Thus is the role of sustainability and transferability in extended engagement. These topics may now be further explored to intimately analyze US extended engagement in Brcko, BiH using the targets and instruments of the preceding chapters: the Role of the Supervisor, Direct US Government Assistance, The Brcko Law Review Commission and the contract of USAID.

--- Chapter V ---  
ISSUES OF SUSTAINABILITY

What has unfolded in the pages of this thesis thus far is the story of a unique model of post-conflict reconstruction. To consider US action a “model” does not imply a complete policy had been designed from the outset. Rather, the intervention was a responsive, *extended* engagement during which extraordinary challenges were met by extraordinary measures. The story of the role that the United States has played in guiding three separate communities in the Posavina region through a transition from a socialist economy ravaged by vicious ethnic conflict to one, autonomous District is unique. The measures of success – nearly full refugee return, a reinvented infrastructure, a fully integrated government, school system and police force all within the context of a transitional economy – offer powerful insight to the development that may be achieved through extended engagement. This story, however, is unfinished; its ending is dependant on unknown variables. The closing of USAID contracts, the testing of new legislation and industries no longer in their infant stages, the introduction of a Value Added Tax, the consolidation of State Police, the withdrawal of the Supervisor and the integration of Brcko in the BiH, reception of local officials and citizens to increasing responsibility – all will test the *sustainability* of reforms made in Brcko.

**Bosnia's Paradox: Dynamic Development, Static Cynicism**

There is a paradox in Bosnia that plagues the development process and complicates the projection of the sustainable reform. It is a manifestation of conflicting characteristics in the air in the Posavina region: a clash between the ever-changing atmosphere in which *ad hoc* reforms must be implemented and measured and the persistence of a cynical resistance, albeit a well-founded and supported cynicism, to belief in the success of reform.

Perhaps even the concept that current reforms and their apparent progress may be gauged as “successful” is premature and presumptuous [for purposes of this thesis, “current” reforms refer to scenarios wherein the implementer is still active in the reform]. After all, the

structural integrity of current reforms has yet to demonstrate an independent, unprotected perseverance over time and against external threats. Unpredictability gives way to doubt. It is reasonable to posit that a “success” fostered by internationals would be as transient as the implementers themselves. Equally threatening is the quandary of crisis response. If reforms must be reactive to case-specific needs and challenges, is not their applicability resisted to the setting and scope of their formation? Intervention is tested immediately the instant the variables are altered; implementers come and go, and the scenery may change. These are the risks of post-conflict intervention in any location.

The challenge of the dynamic nature of reconstruction is compounded in Bosnia by a steady and stubborn doubt in the ability of reform. The attitude which has been alluded to is hardly a little-known trait on the Balkan Peninsula. Nor is the acknowledgement of its role in the sustainability of development a criticism. Rather, it is a truism of the region. Hardened locals consider it a savvy - the long-earned wisdom of a region which has weathered ethnic conflict since the Battle of Kosovo Polje in 1389 and witnessed a barrage of internationals storm through its grounds with schemes for reform, to no sooner retreat to domestic issues or gallivant to more current, glamorous crisis. Frustrated internationals label it “passivity”, or “Balkan Pessimism.” They regard it as the product of a culture buried in its past and disbelieving in its future.<sup>165</sup> Call it what they may, there is an undeniable apathy, on whole, towards promulgating new ideology and institutions. This “difference in mentalities,” to employ the most neutral term, was surfaced by internationals and locals alike throughout research for this thesis and is vital to the study of development sustainability.

Thus, for better or worse, the question of sustainability must address both the consequences of changing variables within the District and the implications of a “difference in

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<sup>165</sup> For an article that elaborates upon this topic, turn to: Coles, Kimberley. *“Nothing” Matters: The Practices of Passivity*. Text prepared for a Watson Institute Workshop, “Democracy, Bosnian Style.” March 14, 2003.



mentalities” between the local citizens and officials and their guests, the international implementers.

### **Unknown Variables: A Dangerous Dependence**

There are numerous changes on the horizon for Brcko and for all of BiH. Most fundamental, perhaps, is the speculated transition of the Office of the High Representative from the administrative position of “Chief civilian peace implementation agency in Bosnia and Herzegovina” to the more humble “Office of the EU Special Representative.”<sup>166</sup> In turn, this anticipated move spells withdrawal for the OHR-Brcko Office, the Supervisor and her staff. Yet, as detailed in the section on Supervisor Johnson’s agenda, the withdrawal of the Supervisor is, by contract, dictated not solely by the will of the High Representative but also by the status the Brcko District and the fulfillment of the Final Award. The Supervisor, the High Representative, and mostly all those cognizant of the trajectory of Brcko and BiH recognize this to be a conflict of interests. In fact, to reconcile this conflict the Peace Implementation Council OHR is cited in its most recent Communiqué as urging those responsible to “engage intensively to resolve outstanding issues in order to strengthen the relationship between Brcko District and the State”.<sup>167</sup> The withdrawal of OHR then hangs upon the issues that lay between the preparedness of BiH to embrace self-rule, the satisfaction of the Supervisor’s mandate and, in what is considered the question of the hour, the timing of when these two paths will converge.

#### *Question of the Hour*

The March 15<sup>th</sup> Communiqué by the PIC Steering Board delivered the message that, according to OHR in Sarajevo, the time for a metamorphosis of the role of internationals is imminent, possibly as soon as 2007:

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<sup>166</sup> Office of the High Representative, General Information, para. 2.

Source: [www.ohr.int/ohr-info/gen-info/](http://www.ohr.int/ohr-info/gen-info/). Website Verified: 15 April 2006.

<sup>167</sup> PIC SB Political Directors. Communiqué by the PIC Steering Board. Vienna, 15 March 2006, Section 3. Source: [www.ohr.int/pic/default.asp?content\\_id=36760](http://www.ohr.int/pic/default.asp?content_id=36760). Website Verified: 15 April 2006.

The High Representative said his office will continue the process of transferring responsibilities to the BiH Authorities in order to prepare for the transition to an Office of the EU Special Representative next year, taking into account progress towards Euro-Atlantic integration. In this respect, he said that the OHR will no longer take on new commitments and will focus on meeting existing tasks. He highlighted the need to address a range of issues to prepare for transition allowing OHR to be phased out in an orderly manner. He explained that he was considering the first or second quarter of 2007 as a possible timeframe for transition to occur.<sup>168</sup>

Bearing in mind this imminent deadline, the “range of issues to prepare for transition” is, today, prohibitively extensive. These issues are also indicative of the similarity between the obstacles that lay before the High Representative and the Supervisor of Brcko (note again: the Deputy High Representative) before they may consider their mandates fulfilled. A more detailed examination of the nature of this “scaled relationship” and its implications for the holistic analysis of the Brcko experience are provided in the closing section. For the purpose of projecting the sustainability of development, this scaled relationship allows for exclusive concentration on issues facing the Supervisor to suffice for the discussion of sustainability.

While the Final Award states specifically that the withdrawal of the Supervisor of Brcko must be done “with the approval of the High Representative,” the decision remains one that is intensely personal for Supervisor Johnson. The requirements she must address to fulfill her mandate are as elusive in measurement as is the agreement of an exit date for OHR. Mentioned in the section on the Role of the Supervisor, these measurements include an estimation of the extent to which Brcko institutions are working “efficiently and apparently permanently.”<sup>169</sup> This wording leaves much room for interpretation. Gerhard Sontheim elaborates on the ambiguity of the mandate and its divisive effect on the interpretations of the Final Award made in Brcko and Sarajevo.

When can the Supervisory report that the job is done - well, that’s *the* question that’s being discussed right now. There are differences between OHR Headquarters in Sarajevo and our office. The Final Award states clearly that

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<sup>168</sup> PIC SB Political Directors. Communiqué by the PIC Steering Board. Vienna, 15 March 2006, Section 1. Source: [www.ohr.int/pic/default.asp?content\\_id=36760](http://www.ohr.int/pic/default.asp?content_id=36760). Website Verified: 15 April 2006.

<sup>169</sup> Final Award. Arbitration Council for the Status of Brcko District.

the Arbitral Tribunal retains jurisdiction over Brcko District until such time that the Supervisor informs, with the approval of the High Representative that Brcko institutions are working “effectively and apparently permanently”. Our reading is that it is solely and exclusively the Supervisor’s responsibility and she even keeps saying that she bears a *personal* responsibility for that report, so she will have to be very cautious. Now this, of course, has a range of interpretations. What is “effectively”... is there any administration that works *effectively*?<sup>170</sup>

The insurance of effective and permanent institutions is not the only evasive requirement of the mandate. As introduced earlier, the Supervisor and OHR-Brcko remain focused on four pillars of development in the Brcko District: the “apparently permanent” functioning of the District government; the disentanglement of Brcko legislation from Entity law; the promotion of economic growth; and the ability of the state to protect the status of the District. With each pillar the effective permanence of the reforms lies in the integrity of the *institutions* and the extent of their *public engagement*.

*“Effective and Apparently Permanent” Local Governance*

“Without Man Nothing is Possible, Without Institutions Nothing is Permanent”  
Jean Monet

How is “effective” governance to be measured? The extent to which efficacy in government can be calculated in *any* government is dubious world-round, in states young and old, vulnerable and established. In Brcko, the strength of institutions and the level of public engagement have been the decisive factors in monitoring the efficacy and gauging the permanence of the Brcko District Government. In fact, the former measure (strong institutions), is largely dependant on the second. Public engagement is more than a dialogue between government and citizen; it is the initiation of a *receptive* relationship. Local governance reforms for which this relationship is most direct and clearly defined engender much greater support from the public. Similarly, reforms that have incorporated locals in the implementation process itself stand a greater opportunity for sustainability than those which

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<sup>170</sup> Interview. Gerhard Sontheim. Deputy Head of OHR, Brcko Final Award Office. May 6, 2005.

do not. Naturally, if people are invested in change they will work to preserve it. Richard Robertson related this concept to PADCO's experience:

As for sustainability, these are some things that will continue: the budget process that has been developed, both in Brcko and elsewhere, if we left tomorrow, the *citizens would not allow that to go back to the way it used to be*; the one-stop-shops that we've created, that's sustainable. People are not going to allow the government to go back to the old way of doing those things.<sup>171</sup>

While Robertson specifically cites the one-stop-shops, other institutions implemented to improved access and equity such as the Passport Issuance and Vital Statistic Registry and the Public Information Office have had a similar effect. These institutions are tangible; people can visualize the building and shake the hand of attendants behind the counter. These are the breeding grounds of sustainable reform - the experience citizens have within these institutions determines the tenacity with which they will protect them.

The establishment of the Public Information Office has been, by definition, a major contribution to increased public awareness. An informed public is more able to constructively engage its representatives. However, the PIO still relies on the citizens' initiative. A developing media, on the other hand, has played a similar role but brought information to citizens' homes. The District has its own, multi-ethnic radio station, HIT, on which local events are advertised. Special events may also be broadcast on public TV stations and in flyers throughout the town. A monthly recap of events in the District is provided for free, by the government, pamphlet format information source titled *Mirovi*.<sup>172</sup> That said, many feel that the District could do an even better job of informing its citizens. Due to a lack of startup capital there is no daily newspaper for the District; though residents read material from surrounding areas, coverage of Brcko in the entity papers is often less than optimal. Monitoring the development of Brcko's media and public relations may be an insight to the longevity of reforms in place. Institutions of local government accountability may contribute

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<sup>171</sup> Interview. Richard Robertson, Team Manager of PADCO. 22 April, 2005.

<sup>172</sup> Interview. Petar Vasic, PR of Brcko District Government. 27 April 2005.

to the transparency and ethical operations of a sitting government, but deeper analysis of whether Brcko government may work “effectively permanently” questions the ability of the District to change its leadership. The efficacy of an appointed government may display one measure of success, but the capacity of the District to elect and monitor its own representatives tests the extent to which this local government reforms have been internalized. Local elections held in 2004 challenged the pervasiveness of the efforts to foster civic involvement. Results, however, are still perhaps too fresh for interpretation.

*Elections: Testing the Internalization of Reforms*

The first District elections were held on October 2<sup>nd</sup> 2004. Synchronized with the national elections, the District had a 64% voter turnout - the strongest showing in the country.<sup>173</sup> The fact that the elections produced a high voter turnout expressing a moderate political voice is promising as an expression of voter standing. However, since these were the first post-war elections it is difficult to tell whether the results are a true expression of interest in the democratic process or whether they merely reflected the enthusiasm of a community that had been disenfranchised for over a decade. Early as it may be to gauge the sincerity of voter interest in the District, many feel it is equally early to judge the success of the new government. Natasha Predojevic elaborates this point and addresses the monitory role that OHR has adopted to collaborate with this newly elected government and encourage administrative independence:

As for the new government, I think that there has to be more time given to them, in a sense that it's a... it's not a concentration government; it's a coalition of parties with different agendas, different parties, different ethnicities. I think overall they support the major projects; they may differ in rhetoric, they may differ in how they approach and do certain things... How they will get there, whether it will be a rocky road, or a smooth sail, we're here to monitor, and to see, and sometimes even to offer counseling and a kind of elegant assistance need there be. But we're not so much into intervention, because this is the elected government and now for us it's the time to pull back and see how they do things. If there is a need, and if there is a problem,

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<sup>173</sup> Kampschror, Beth. “Brcko District Voters Turnout in First Post-War Poll.” Southeast European Times, Sarajevo BiH. 05 May, 2004

of course the door is always open, and we're always kind of in a reactive kind of mood. But we're not steering now, we're not leading, we're not saying this is the agenda.<sup>174</sup>

The fact that this government is accountable both to the voters that put them in office and to an increasingly stronger state government is an additional burden for the newly elected politicians.<sup>175</sup> The relationship which develops between official and citizen will reflect the extent to which each party has taken ownership in reforms in local governance enacted in the District. OHR cannot dictate the results of votes and USAID cannot guarantee the accountability of government. Sustaining an "effective and apparently permanent" local government is a task that cannot be performed by external intervention. In what this thesis will describe as a *naturalization* of reforms, upholding development in the District must be a responsibility embraced by internal parties. Supervisor Johnson identified the importance of local government acceptance of the reforms and standards that have been established for ensuring effective and transparent government practice.

Could the District have done better? Can the new government do better? How? There are many things that we could mention in answering these questions. I would like to mention only one which, I believe, is key. The District could have done – and can do- better in the future by more broadly recognizing that merit – professional skills and demonstrated ability – is key to good governance and success – rather than political party membership, nationality of personal connections. If the District is to move forward and to successfully meet the challenges it faces, political parties and leaders must accept that ability and professional skill must be the first criteria in filling positions in government. Local government as well as parties will fail to deliver unless they can select and appoint professionally qualified people as public employees.<sup>176</sup>

The naturalization of Brcko's development and institution-establishing reforms that have engaged the public will be an important presence in *future* governments. Meanwhile, Brcko also has a new program to develop a local government audit which would monitor the operations of the *current* government. At the time of this research the program was scheduled

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<sup>174</sup> Interview. Natasha Predojevic and Edin Agic, OHR Brcko. 25 April, 2005.

<sup>175</sup> Ibid.

<sup>176</sup> Speech. Supervisor Susan Johnson at the Second Conference of Mayors and Civil Society in BiH. Brcko, BiH. April 17-19, 2005.

to begin in 2006.<sup>177</sup> The hope is that the operation of an annual, independent audit would encourage effective, efficient and ethical practices within the Brcko District Government. The independent Judiciary is an institution that also serves to balance the newly empowered local government but operates with comparatively more experience.

### *The Judiciary and Legal Reforms*

An independent Judiciary, and the laws drafted by the BLRC, is perhaps the strongest institutions in the Brcko District. While the origins and transferability of judicial reforms were addressed in the Chapter on the BLRC, it is important to illustrate how a select few of these laws, and particularly the independent judiciary, are fundamental to sustainable reform.

What we hope for is to strengthen the institutions, to strengthen the Rule of Law. To establish *domestic institutions* to enforce the rule of law. This must be the role of the Courts.<sup>178</sup>

The District Court, as detailed earlier, is an independent, apolitical entity. Aspects of the experience in Brcko suggest judicial autonomy exists in practice, not just in theory as with some new governments' experience. The arrangement that funding proposals be determined by the Judiciary Commission have contributed to a separation of powers from the District Assembly and Executive Branch.<sup>179</sup> The introduction of anti-corruption prosecution proceedings, also, has enabled the Courts to penalize a government official for breaking the law. Similar to the European tradition of surcharge, these proceedings have allowed the Brcko District Court to be the first judiciary in Bosnia to punish corrupt officials.<sup>180</sup> The ability of the judiciary to hold the Brcko Government accountable to its citizens is further reinforced by the Prosecutor's Office. Displaying "high ethical standards and transparency provisions," the Prosecutor's Office is required "to annually inform the public through the publication of a publicly accessible written notice on the crime rate, other criminal issues, and

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<sup>177</sup> Interview. Natasha Predojevic and Edin Agic, OHR Brcko. 25 April, 2005.

<sup>178</sup> Interview. Matthew Parnish, OHR Legal Advisor. 15 March 2006.

<sup>179</sup> Brcko Law Review Commission, Chairman's Final Report. 31 December 2001. Pg 33.

<sup>180</sup> Interview. Matthew Parnish, OHR Legal Advisor. 15 March 2006.

issues of general public significance.” These institutions empower the public to hold their government accountable; others engaged citizens in an economic capacity.

Nearly all the laws drafted by the BLRC have contributed to economic development. Indeed, “legislation aimed at economic development is actually the precondition for any sustainable economy and economic growth.”<sup>181</sup> Each law, in its own right, has contributed to furthering efficiency, transparency and accountability in local governance and perpetuating economic revitalization. The earlier account of Brcko’s privatization explained the innovative measures that were taken by former Supervisor Clarke to adapt the process to Brcko’s specific needs. Here, however, it is important to observe that privatization laws have continued to bring economic success to the District even after Supervisor Clarke’s administration. At the time of this research, Brcko had privatized 18 companies attracting some 70 million KM of *fdi*. The jobs provided through these companies approximate 1000 permanent positions.<sup>182</sup> It is difficult to conceive of a more direct relationship between a law and the creation of economic opportunity.

#### *Gauging Economic Development*

Even the most peripheral reform can impact economic growth in a region. Every aspect of reconstruction in the Brcko District, be it utilities, local government accountability, legal development, public works, or public security contribute to an economically friendly atmosphere. For this reason it is difficult to isolate the primary contributors to economic growth, or measure its development. Supervisor Clarke explained how he interpreted the ambiguity concerning the Final Award mandate for economic growth:

The most unspecific mandate in the Final Award is the requirement that the Supervisor revitalize the economy. The Award makes suggestions regarding the river port, foreign assistance, and so on, but there is no hard measure of completion. Yet, I could measure every idea in the economic field against the

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<sup>181</sup> Interview. Natasha Predojevic and Edin Agic, OHR Brcko. 25 April, 2005.

<sup>182</sup> Ibid.



general goal of economic revitalization: Will this idea help revitalize the economy, or not? Would something else work better?<sup>183</sup>

Since the commencement of the District, but particularly since the tenure of Henry Clark, development work has targeted long term economic growth in such an all-inclusive manner as described above. Examples of such economically motivated efforts that this thesis has identified include, among others, the Supply and Demand Survey, the LAMP project, agricultural incentives, fostering SMEs, support of the Arizona Market, OHR's Socio-Economic Council's push for independent government audits. These project were designed to generate economic growth after the Supervisor's departure. The perpetuation of these reforms, however, depends largely on how those inheriting their execution carry forward. These points were emphasized to the author during research at the OHR Final Award Office:

They [Brcko] have projects such as democratization, such as building capacity of the local institutions, which is PADCO, DMT originally, that tried to build the capability within local people to continue. Now whether that was successful or not, you know in some cases yes, in some cases no... it depends on the actual people who were a part of it, on the side of both the implementer and the benefactor.<sup>184</sup>

Supporting sustainability, therefore, involves identifying its threats. The implications of changing variable have herein been addressed. The remaining ambiguity surrounding the sustainability of Brcko's progress is the manner in which they will be upheld. Estimating this reception, and indeed that transition process itself, is complicated by what many have termed a "difference in mentalities."

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<sup>183</sup> Clarke, Henry. *Brcko District: An Example of Progress in the Basic Reforms in Bosnian and Hercegovina*. Speech delivered for East European Studies (EES) at the Woodrow Wilson International Center for Scholars. EES Meeting Report 293. February 4, 2004.

<sup>184</sup> Interview. Natasha Predojevic and Edin Agic, OHR Brcko. 25 April, 2005.

**“Different Mentalities”**<sup>185</sup>

Experience demonstrates clearly that the achievement of major government reform in situation like those in Brcko is a great deal more fragile an enterprise than is normally acknowledged. Even if the OHR stays for another five years and there isn't someone of the stature and experience as the current Chief of Party sitting next to the Mayor's Office for the next three years, many of the projects most important accomplishments are likely to be lost or seriously compromised.<sup>186</sup>

Individuals involved in both the consulting and receiving capacities of reform in Brcko have attested to cooperation and conflict with their counterparts. In describing instances of the latter, internationals and locals alike, almost without exception, reference the friction caused by “different mentalities”. Further description of this translation gap was hardly forthcoming (mutual respect or self-preservation, perhaps), yet there seemed no shortage of this difference in mindset.

*Pace and Passion: An Under Appreciation*

Locals tended to reference a lack of understanding of the pace and passion in Brcko. The pace of the work day between the internationals and locals was a common gripe; coffee breaks, frequency and length, are perhaps the main point of contention here. Though the under appreciation of the “caffeine crave” was a point often raised with a jocular tone, it carried a resonating undertone of sincerity. More costly examples of the importance of pacing transition and reform delicately may be observed in the reform work surrounding District elections and the restructuring of the police.

In Brcko, an institution looking to develop democratic parties should *not* start by discussing the importance of emphasizing economic issues during a campaign. The parties still exist in an arena confined by ethnicity – resolving this must be the first and foremost

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<sup>185</sup> For the sake of respecting those with whom I had these conversations, quotes and commentary will remain anonymous.

<sup>186</sup> Rosenbaum, Allan. *Building Equitable and Effective Local Governance in a Complex Ethnic Environment: The Case of the Brcko District Government*. Prepared for the 10th Annual Conference of the Network of Institutes and Schools of Public Affairs of Central and Eastern Europe. 2001. Pg

priority.<sup>187</sup> Yet simultaneously, the appropriate occasion for resolving these issues is *not* immediately before local elections. It was relayed to me, on two different occasions, that internationals always surface the discussion of war crimes and sending generals to The Hague directly preceding elections. This does little more than draw sympathy to nationalist causes and risk producing a more nationally polarized electorate. An anonymous Brcko resident attested to the gravity of this misfortune:

The mentality is so different. When you internationals, for example, when they come to talk about the war crimes about Mladic and Karadzic... internationals come to talk about that and one population is always against you. But internationals do that before *all* elections. Just stop talking about it. It just frustrates. That means that in the future the situation will be unstable.

Stability is a constant concern and vulnerable on many fronts. An imminent threat to District security lies in the current restructuring of the national police force and consolidate Brcko's locally headquartered and integrated, internationally trained officers. OHR-Brcko appreciates this is a sensitive matter, but often in justifying the transition this appreciation is lost in translation.

A venue which proved ideal for observing the difference in mentality within this issue was the public hearing on Police Reform. When it came time for the question and answer period, the issue of the changes in the Police Force upon the commencement of Brcko's integration within BiH was of primary interest. The first question raised on this topic was posed by a middle-aged man, who was concerned about where the police headquarters would be located after integration. The officer delivering the presentation retorted that it did not matter where the headquarters were, be they based in Brcko, Doboj or Sarajevo. This answer was clearly not satisfactory and the same question was raised again and again. It became clear that telling people that something "wasn't an issue" was an absurdly insufficient response when obvious, audible concern proved that it *was*, undeniably, an issue. The second point touched on the grandeur concept of integration. The question was posed in a jaded tone

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<sup>187</sup> Interview. Marinko Sakic. USAID Democracy Project. 29 April, 2005.

by an older man, defensively inquiring as to whether this integration process is a reward for all the hard work the District has done. A point that deserves empathy, and which was met with sobering, realistic justification. The OHR representative sympathetically explained that, “Brcko is not an island.” He offered the example that having an elite police force can only guarantee so much security because of the external forces that threaten the District. The best communication equipment for your police department does nothing if they can only communicate with themselves. This dialogue is a window into the nature of the exhausting relationship between international and local efforts.

*New Market, Old Methods, and Brcko in Between*

The international who spoke to the “different mentality” aspect of sustainable change mentioned, repeatedly, the dregs of a socialist background. For the most part, the references concerned economic development. Bosnia and Herzegovina faces the dual challenge of post-war recovery *within* a transitional political economy. The fact that the war was not fought to usher in democracy or capitalism was a point echoed throughout Brcko. Perhaps the most resonating quote from this research was one international’s frustrated exclamation that “people complain about not having their old jobs, but, quite frankly, it doesn’t take 700 people to sweep the floor.” The inclination of Brcko employers to enter market competition trying to carry a socialist-sized employment roster was cited, also, in accounts of privatization in the district. There are, for certain, growing pains in developing a democracy and supporting a capitalist market. The effort, however painful it may be, has produced relative economic success; Brcko’s employment and average salary, after all, are the highest in all of BiH.<sup>188</sup> The successes of the District must be fully and consistently reported to the people to bolster morale and support during this transitional period. Without this added incentive the tendency is to recourse to a history of conflict.

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<sup>188</sup> ICG Balkans Report, Bosnia's Brcko: Getting In, Getting On and Getting Out. 2 June 2003

The most disheartening comments collected during this field research came from of the locals who were, themselves, involved in the reform process. Sitting at a table, drinking *kava c mljekom* the consensus that war is a tradition in Bosnia and it will, inevitably, happen again was echoed by five different people. The expiration date for peace decreased as conversation progressed. It began with one person's mention of the fact that war happens every 50 years, the next person countered, "Every twenty". His neighbor raised the wager, "15, even"; and so was set the slippery slope. At a different table, but over a similar cup of coffee, the story was no different.

A: Would things change if the district was supervised differently? Or would it...

BR: I don't think so... because if they wanted to change something they had the chance over the last five years. Things cannot happen over night. I know that and I appreciate that, but they can do something, they can try to. We had a government, and in general the government was so much corrupt because everybody wants so much to support himself and nobody want to support ordinary people, support workers, support refugees to support returnees. But we had one area where the support... they built small house... but they didn't build a rode for them. They didn't put asphalt down because that's a refugee's neighborhood... and they won't do that... [mockingly] there's no money in the budget to do that.

BR: And then, international community is here for, we can say, teaching us, but ok they are not teaching us, just...

A: Monitoring?

BR: Ok, we can say monitoring but sometimes they are just wasting our time.

A: So that's one of the things that I'm interested in. What could they be doing that could be better?

V: Just to invest money. Don't just come here with some kind of advice.<sup>189</sup>

This interchange between a Brcko Resident (BR) and the Author (A) paints a dark future for the District. According to this resident, corruption and prejudice are still obstacles to development, faith in the new government is decisively and justifiably low, and international consulting efforts amounted to little more than misdirected funds. The counter to this pessimistic outlook is that the institutions upon which Brcko has been rebuilt can offer, perhaps, a sturdier foundation for functional government than what was previously in place.

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<sup>189</sup> Here again, as with most quotes in this section, the interviewee will remain anonymous. "A" indicates a question by the author and "BR" represents the response of this Brcko Resident.

Indeed, the delicate transition from international to local authorities creates room for backsliding on reforms. Yet there exists an even greater threat to the sustainability of Brcko's progress. The transfer of authority from within Brcko to external, state officials upon Brcko's further integration into the BiH structure is the greatest cause for long-term concern. A common belief, and one that is well-founded, is that a national BiH government will be either unable or disinterested in protecting the status of the District.

### **A Dubious "State" of Affairs: Gauging the Ability of BiH**

Before this report can be done, that the district is working "effectively and apparently permanently", we need to make sure that there is someone, some mechanism that protects the District's status as a quasi entity; that protects the District against interests that might very well be emerging from the two entities. And that can, as we believe, only be the state. We have been approaching that issue but we don't have a solution.<sup>190</sup>

Though the fulfillment of the Final Award is a prerequisite for the withdrawal of the Supervisor, the OHR-Brcko Office will close, logically, with the phasing out of OHR. The resignation of OHR, in turn, implies that BiH is capable of operating independently. This is status has not yet been reached. BiH has yet to demonstrate that its authorities are prepared to execute the functions required of a national executive: reforms have yet to be made regarding the judiciary and education system, police integration is not yet finalized and the tax system is still transitional pending the complete introduction of the VAT, among other outlying state objectives. Most pertinent to the Supervisor, her staff and the citizens of Brcko, BiH has yet to prove it will work to respect the status of the District and the reforms it has made after the removal of OHR. In fact, BiH has not even demonstrated the ability of its own administrative institutions to function autonomously from OHR.

### *Stabilization and Association*

In anticipation of EU integration a Stability and Association Process has been underway in BiH since 1999. It has tracked the development of the national government and

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<sup>190</sup> Interview. Gerhard Sontheim. Deputy Head of OHR, Brcko Final Award Office. May 6, 2005.

reported on its progress as measured against standards of the European Union.<sup>191</sup> A 2003 report on the SAP, though recognizing improvement over time, depicted BiH as a developing nation with much progress still to be made. The expansive weakness of the state allowed for broad and severe criticisms; the most pressing are as follows:

- BiH has not yet assumed full responsibility for government... An appropriate balance of responsibilities between Entities and State needs to be found. Moreover, BiH's administrative base remains weak. It still needs to develop a professional, merit-based core of politically independent public servants.
- BiH's economy remains weak. The persistent lack of self-sustaining domestic growth raises concerns... The financial basis of the State still needs to be reinforced. The funding provided by the Indirect Tax Authority needs to be consolidated, while on the expenditure side, BiH has yet to ensure the optimal use of its limited resources.
- BiH's technical ability remains underdeveloped. Core sectors such as trade do not yet function properly. Weaknesses in areas such as free zones, competition, certification, copyright and statistics need to be effectively addressed. BiH's core challenge of building a self-sustaining state able to integrate into EU structures remains.<sup>192</sup>

In short, the Bosnian state can hardly ensure that its own institutions and objectives are working properly, let alone guarantee the protection of the status of the District. Grave as this diagnosis may appear, an even starker truth exists. Even were BiH institutions to function effectively, further integration into the state would still be a threat to Brcko's relative success. Logically, where the state government assumes power, finances or other resources a loss in that commodity of equal value must be incurred by the Entities and Brcko. The authority transfer is heating the current debate over Police Restructuring and the introduction of a nationwide VAT, two early steps towards Brcko's integration into BiH.

Among the chief advantages that the District has enjoyed are a secure community, regulated by an integrated, internationally trained police force headquartered locally, and an independent administration of District taxes, wherein Brcko retains its tax revenue and utilizes it for the betterment of the District. Both aspects of the District are about to change. The

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<sup>191</sup> Report from the Commission to the Council: On the Preparedness of BiH to Negotiate an SAA with the EU. Commission of the European Communities. Brussels, 18 November 2003.  
Source: [www.delbih.cec.eu.int/en/whatsnew/report-692.pdf](http://www.delbih.cec.eu.int/en/whatsnew/report-692.pdf). Website Verified: 15 April 2006.

<sup>192</sup> Ibid.

consolidation of BiH Police Forces and the implementation of a countrywide VAT are two primary projects of OHR and the national government. A history of poor public administration renders much room for skepticism of the country's ability to aptly and transparently manage a national police force and collect and distribute a new sum of revenue. Even within an established, strong state the implementation of such cumbersome projects would prove challenging. Regardless of the ease of transition, the end result cannot escape costing the District a measure of its relative success. OHR Sarajevo makes no secret of the zero-sum nature of power and resource distribution between the District and BiH. Former HR Paddy Ashdown is forthcoming with this fact in his Final Report on Police Restructuring:

This large expansion of the fiscal role of the state is potentially problematic for the Entities and Brcko. Under the single account system, every convertible mark (KM) in new spending at the *state* level will result in a corresponding decrease in the revenues of the Entities and Brcko. For this reason, it is essential that any new spending on policing at the state level be offset by reductions at sub-state levels. Failure in this regard would worsen the already fragile fiscal situation in BiH.<sup>193</sup>

The Final Report contains detailed description of these steps towards integration. With the introduction of the VAT, revenue will be collected by a national authority and redistributed to the sub-entities, sacrificing the District its former relative advantage of tax administration. Perhaps even more damaging to Brcko is a loss greater than revenue. With police restructuring the District will retain only an Operational Center for the new police force as headquarters will be relocated to Doboj, 82km from the District center (an 80 minute drive assuming optimal road conditions). While this may, in reality, do little to effect the administration of police forces, it has been a point of concern for Brcko residents and a blow to District morale. Furthermore, OHR anticipates a marginal downsizing of all Canton police over the next two years. These setbacks to the District's authority undermine both the

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<sup>193</sup> Final Report on the Work of the Police Restructuring Commission of BiH. OHR-Sarajevo, HR Paddy Ashdown. 31 December 2004. Source: [www.ohr.int/ohr-dept/presso/pressr/doc/final-prc-report-7feb05.pdf](http://www.ohr.int/ohr-dept/presso/pressr/doc/final-prc-report-7feb05.pdf)  
Website Verified: 15 April 2006.



integrity of District's institutions and the morale of the public – a dangerous combination for the development in Brcko thus far.

### **From the Experts**

From analysis of the institutions in place in the District, current local sentiment, the varying perceptions of local and international development workers, and the challenges they lay in Brcko's imminent absorption by BiH an estimate on the sustainability of the District's development remains inconclusive. Thoughts entertained by the experts in this field revealed that some are more confident than others in the trajectory of the District.

In keeping with the inconsistencies of Brcko's future, their opinions rarely dovetail. Indeed an "expert" prognosis on the future of the District depends largely on the expert. For one local implementer the District is doomed to future violence:

BR: This district will break down in the next two or three years, just, this is not natural institution, you know, factories doesn't work and we're just getting money and the income for the budget is just, like, half from customs, taxes and half from some other thing...

A: So, I guess my question at this point, is it seems like international assistance should be going towards creating sustainable economic opportunity, somewhere.... You know money into factories, into anywhere. And I guess that's my question, should they?

BR: Ok, they should be. But international community here is necessary to be present here. The first reason is we will right each other after they leave.

A: Definitely? You sound like it's not even a question...

BR: Of course... Not fight with guns right away, it will start with political fights then some other things and then will go...

A: Degenerate slowly?

BR: Yes, degenerate.

Other development workers find the direction in which Brcko and BiH are headed to be more ambiguous. A battle between Brcko's institutions and internationally trained public servants and the changing variables and unknowns that lay ahead will decide the fate of the District. Some have put stock in legal reforms, others hold out hope for the integrated school system's effect on the next generation, while still others endorse the belief that the fate of the District will follow the development of its economy.

Among other aspects of Brcko public life, Supervisor Johnson emphasizes the importance of incorporating youth into the progress of the District. “I would like to stress the importance of young people. BiH needs its youth. You, as leaders, [directed towards a conference of BiH Mayors] must give them a stake in this country, starting at the local level.”<sup>194</sup> OHR-Brcko’s Legal Counsel endorses the ability of the legal reforms and independent judiciary is primary to sustainable development in Brcko. He insists that investing more power in the judiciary holds the potential to curb corruption in the District and protect a business-friendly atmosphere conducive to economic growth. With the caveat that “initially we’ll take several steps back”, he suggests three imperatives for Brcko’s success:

- Keep [Brcko] Hands on the Money
- Spend it Wisely
- Encourage Foreign Investment<sup>195</sup>

This author is in accord with the opinion that the tale of Brcko will be told by economic dimensions and determinants, yet believes that a qualified manifestation of economic success that is indicative of sustainable development is only one of three primary determinants of sustainability in Brcko.

### **Observations from the Field**

The primary determinants within the District’s jurisdiction of whether the progress made thus far will be sustainable include the penetration of economic success within the community, the protection of the legal foundation of the District, and the naturalization of broader reforms. Yet beyond the international operations of the District, an external threat that poses a greater challenge to Brcko. Integration within BiH looms ahead, regardless of the District’s ability to internalize the development process.

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<sup>194</sup> Speech. Supervisor Susan Johnson at the Second Conference of Mayors and Civil Society in BiH. Brcko, BiH. April 17-19, 2005.

<sup>195</sup> Interview. Matthew Parnish, OHR Legal Advisor. 15 March 2006.

### *Economic Distribution and Legal Perseverance*

The *distribution* of economic windfall and a *consistency* of economic opportunity, for both capital building and investment in the District, will be the economic determinants in the sustainability of Brcko's development. Much like the fate of a post-Tito Yugoslavia, destructive influences stand the chance to do their damage upon the kind of civil unrest produced by economic downturn.<sup>196</sup> An economically cogent environment relies on the functioning of many Brcko institutions, an independent and able public administration, for example, and the collective engagement of the public.

Of the many aspects crucial to economic security, the legal foundation established in Brcko is perhaps the most sustainable. Local government is subject to fluctuate with individual personas, a public administration has yet to be established and civic life is hugely underdeveloped. Fundamental laws, however, have already been passed, and an independent judiciary already has tallied victories against corrupt officials. The safeguard of this legal system, which contributes to economic stability from all corners, is paramount in the protection of development in the District. Yet the process which will have the final word on whether the District takes ownership in the development it has made this far is a more subtle process than the drafting of laws.

### *Naturalization of Reforms*

The importance of the receiving community to take "ownership" in the reforms and developments that are made during international intervention is not a novel concept. Intuitively, if the projects and policies integral to the recovery of a community are not embraced and internalized by the community itself, then progress will not be sustainable once the implementers of change withdraw. The *naturalization* of development which this thesis

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<sup>196</sup> Causes of the fall of the former Yugoslavia and the escalation of violence into the early 1990s are topics that lie outside the realm of this thesis. However, the author supports, from among a long list of studies, the theory that economic hardship experienced by the individual allowed for the exacerbation of a vulnerable situation by those ill with nationalist hatred. Nationalist movements had flared under Tito (eg: the Croatian Spring of 1974) and post-Tito Yugoslavia was not necessarily destined for failure. However, fatal economic mismanagement led the way for charismatic ethnic extremists to tear apart the Balkan Peninsula in search of a stable status quo.

argues is vital to sustainability is indeed a matter of internalization and ownership as the concepts have been formally understood. Naturalization, however, requires more of the community. Naturalization is not mere acceptance; it is not a passive process. Internalization connotes external origin, and ownership implies a more stagnant transfer of property or process. Naturalization should be understood as a proactive engagement made by the community to not only protect the institutions and innovations instilled by internationals, but also to translate the process by which these reforms were made to self-generating, organic mechanism unique, inherent and valued within the community. It must be the drafting of new legislation consistent with reform, not solely the protection of existing legal entities. It must incorporate the birth of new business and the success of privatized corporations, not just the trimming of the entrepreneur registration or the transfer of ownership from state to subject. It must invoke the initiative of an ambitious, inquisitive community unsettled with the simple rebuilding of public services such as water, electric and telephone infrastructure, and constantly in search of innovative, ground-breaking technology. Further still, sustainable development requires the naturalization of an election process that engages the public and empowers capable, professional and ethical leaders.

There are several methods of fostering the naturalization process that have gone unaddressed in this thesis, indeed on some accounts they have been under prioritized in Brcko. Two particular instruments and one broader objective are deserving of mention as they each contribute to developing capacity within the District to sustain development reforms. First, is the host of reforms through legislation, mediation, and integration that unified the three formerly segregated school systems of Brcko Town, Brcko Brka, and Brcko Ravna. As mentioned above by Supervisor Johnson, the next generation of Brcko leaders will be charged with the care of a unique environment. The time to engage that generation is now, within a neutral system where a spirit of integrity, equality and accountability may be instilled at a young age. Legislation passed by the BLRC provided a sound foundation for education

reform. Much of the more recent development work within the school system has been directed by the EU and thus fallen outside the focus of this thesis; the implications of this work, however, remain of utmost importance. A second instrument targeting the naturalization of reforms is the creation of a Public Administration. This particular measure allows for the institutionalization of local capacity. It creates a forum wherein Brcko residents are required, by job definition, to maintain the apolitical integrity of local civic and government processes. The effort in Brcko to build such an institution has currently been undertaken by the EU and remains in the early stages of development.

A final means of fostering the naturalization of reforms in Brcko addressed in this thesis is less an instrument than it is a broader development concept. The cultivation of an active *civil society* is a grand objective aimed at instilling capacity within current local leaders to promote development and reform. This concept has been left underdeveloped in this thesis partly because it is underdeveloped in the District. This is a most worrisome observation. Public hearings, the Public Information Office, public awareness campaign and a developing media certainly support civil society, but that are not the strongest effort that could be made to encourage the naturalization of development. The funding and guidance of local NGOs, the support of local civic groups and media forums, the training and guidance of alternative political action committees, the improved access and activity of public centers and libraries are all instruments that could be employed in the effort to naturalize reform in Brcko. In short, for all that has been achieved thus far, there is still room in the District for aiding and expediting the naturalization of reforms.

#### *Implications of Imminent Integration*

Still, the road that lies ahead is ridden with unavoidable obstacles, and perhaps even U-turns and dead ends if *major* reform of the national structure is not settled by authorities on a scope no lesser than the GFAP negotiation. Even if reforms in Brcko are naturalized and propelled by the District, integration within the national BiH government, as it now stands,

holds definite backsliding for the District. The incapacity of the national state, the zero-sum nature of power sharing in the current strata and, specifically the inefficiency of the Cantonal governments and their strengthened post-integration stature all must be addressed before prospects for sustainable development on a general scope may be expected.

Yet there are two stories here: the success of Brcko, and the efficacy and potential of the reforms. A theory of extended engagement purports that while the outlook for Brcko seems clouded with unknowns, the reforms attempted in the District may still reveal lessons for future international intervention. A turn to the transferability of Brcko's development efforts adds another dimension of evaluating the extended engagement of US led reform in the District.

--- Chapter VI ---

## ISSUES OF TRANSFERABILITY

There will be other Bosnias in our lives, different in every detail but similar in one overriding manner: they will originate in distant and ill-understood places, explode with little warning, and present the rest of the world with difficult choices – choices between risky involvement and potentially costly neglect.<sup>197</sup>

Richard Holbrooke

But will there be other Brckos? This thesis opened with the suggestion that the responsibility of international development actors to remain engaged for a sustained period of time - to see their projects through the early stages of implementation to a state of self sustainability - could yield layered positive outcomes. Such vigilance ensures that intervention reaches its original targets and does justice to the community it intended to serve, rather than merely pacifying (or worse, redirecting) the conflict. Dedication to extended engagement connotes an international development policy of foresight and integrity, not of ambulance-chasing and media-grubbing. It prevents the sacrifice of depth for breath of emergency response. Furthermore, it holds potential to reveal “best practice” policies – models of intervention that have proven to be effective, apparently sustainable, and potentially transferable.

The mobility of development tactics is a highly contestable concept, troubled first by challenges to the identification of transferable reforms and second by the unknown reception with which they will be met. Determining what aspects of the Brcko experience are transferable involves weighing the arguments against the applicability of Brcko’s reform with their demonstrated success in the District. This chapter will explore the extent to which this final benefit of extended engagement is available, today, in Brcko Bosnia. Further, it will probe beyond the identification of “best practices” in Brcko to question whether it is realistic to expect to find a transferable model for development. .

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<sup>197</sup> Holbrooke, Richard. To End A War. The Modern Library. New York, New York. 1999. Page

### *Threats to Identification and Reception*

There are several theoretical threats to the feasibility of transferable reforms. The first is inherent in the process of *institutional abstraction* – the presumptuous extracting of a reform or instrument of development from the setting in which it was molded. The problematic nature of institutional abstraction is, in itself, multidimensional. Development intervention, such as the US assistance observed in the District, is situated in time and place where instruments of reform are crafted to meet specific needs of the District within a certain time frame. Removing them from this setting threatens their integrity and compromises their results. A second problem, also inherent to the concept of a transferable model, is that of *presumed sustainability*. When may it be decided that a reform has been proven successful enough to warrant transfer to another location? Upon successful implementation? After international withdrawal? Ten years after conflict? The difficulty in forecasting sustainability has been demonstrated and it remains a substantial impediment to transferability. To identify potential transferable reforms, certain characteristics of longevity (such as engagement with the public and self-generation) have been used as qualifiers.

Identifying transferable instruments, however, does not address the *reception* with which these reforms will be met. The third impediment, therefore, is the stigma surrounding the mobility of reforms specific to Brcko. The unique status of the District has kept many political leaders outside Brcko from accepting the transferability of development projects. These concerns detract from the receptive ground required for transferred reforms to take root. The importance of reception in the transfer process raises a fourth consideration in applying development tactics: the *destination*. It is important to distinguish between the applicability of reforms to foreign and domestic targets; while both are unknowns the latter offers some degree of commonality. Development reform within a locality is often made to be consistent with the standards and characteristics of its broader community, thus lending it applicable to other sites within that community. For example, Brcko reforms have been



implemented with the anticipation of integrating into BiH just as BiH has made reforms to move towards accession to the European Union. For this reason a reform in Brcko targeting budget management, for instance, may be more compatible with the setting in Doboj, a neighboring city, then to a city in a different Canton or country. Extra-BiH mobility presents an entirely new host of unknowns that will be addressed only topically in this thesis.

#### *Brcko's Rebuttal: Endorsements of Transferability*

For all the elements that dispute the concept of deriving a “model” policy of development in Brcko, many of the instruments of post-conflict reconstruction and reform that have been detailed thus far demonstrate concrete characteristics and a level of sustainability that suggest they are potentially transferable. The analysis of the work done by USAID contractors DMT and PADCO illustrates the similar success rendered by imitable development projects throughout BiH. Many of these reforms will be explored as potentially transferable instruments for their demonstrable engagement of the public and self-generation.

A thorough analysis of the potential transfer of Brcko reforms addresses each of the above issues: the problematic nature of a “transferable model” of development; the current discourse and debate surrounding the transfer, specifically, of Brcko reforms; the process of identifying potentially transferable targets and instruments; the nature of domestic replication, within other municipalities and cantons in BiH on a national level; and lastly, the complexities and idiosyncrasies that compose the consideration of applying Brcko reforms to foreign post-conflict areas.

#### **Problems in Identification and Implementation**

The theoretical construct of a “transferable model of reform” is, at times, contradictory to the ideological premise of successful development practices. More oft than not, the reforms and transformations integral to post-conflict recovery and development render the success that they do because they were tailored, very specifically, to the situation they aimed

to redress. Extracting a “model”, therefore, from its time and place in a broader development engagement compromises both the instrument and its anticipated impact. The problematic assumptions of institutional abstraction and “presumed success” complicate the process of identifying transferable reforms. Yet identification is merely the first step to transferring reforms; the reception of these mobilized development approaches is equally complex. The doubts of implementing Brcko’s reforms were recorded at a Symposium on Local Governance hosted by the District in 2002 at the close of DMT’s mandate; many of the same concerns were also echoed at the April 2005 Conference of Mayor’s and Civil Society. Will these reservations preclude the transfer of Brcko’s reforms? Or will the targets and instruments of Brcko’s development demonstrate a convincingly imitable mode to success?

#### *Institutional Abstraction*

In the observance of any case of successful international development, there is an undeniable temptation to interpret progress as a simple cause-and-effect equation. This temptation can lead the casual onlooker to attribute success to a single reform or policy. To do so in any scenario, including within the context of the Brcko District, is to under appreciate the magnitude of the reform effort. Instruments of development do not operate independently of one another, nor do they exist in a vacuum. The institution of the Supervisor, for example, is widely recognized as a fundamental, enabling aspect of the District’s reform. However, the Supervisor derives authority from the support of international military presence in the District, and furthermore, was accepted by the community because of the imperative nature of the challenges of the times. A civic authority without the legitimacy of security in his or her area of jurisdiction, or one implemented at a less contentious time period wherein the community may be resistant to external leadership, would perhaps be met with less success than was the Supervisor of the Brcko District. “It’s quite difficult to get people to agree to an international

protectorate. Could it work? Sure, maybe. The question is will the opportunity arise.”<sup>198</sup> A community interested in development, even if it hails from a similar past and has been burdened with a similar conflict, would perhaps be wisest to learn from the *process* observed in Breko rather than imitate its structure. For example, rather than extracting the institution of the Supervisor, employ the concepts of civilian leadership backed by a secured community to create an authority consistent with the idiosyncrasies of the case at hand.

This understanding of the untenable nature of institutional abstraction has been widely recognized in development studies. Chalmer’s Johnson is a scholar of East Asia. His study, and similar reservations, concerning the transferability of Japan’s model of industrialization to other East Asian countries offers support for this theoretical query from a setting and site far removed from Breko Bosnia:

The dangers of institutional abstraction are as great as the potential advantages... other nation’s seeking to emulate [Japan’s] achievements might be better advised to fabricate the institutions of their own [success] from local materials.<sup>199</sup>

This example from across the globe emphasizes the general theoretical concern that is raised concerning the proposal to “transfer” policy and success from one scenario to the next. Another theoretical concern of equal magnitude is the risk taken in projecting the sustainability of the success of a reform effort

#### *A Presumption of Progress: Elusive Measurements of Success*

Measuring success is a constant challenge in development work, a relative and often elusive task. Further still, when considering the transferability of the instrument, the measurement of sustainable development may be so far removed from the date of implementation that instruments or technology employed seem less attractive in hindsight.

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<sup>198</sup> Interview. Matthew Parnish, OHR Legal Advisor. 15 March 2006.

<sup>199</sup> Johnson, Chalmers. *MITI and the Japanese Miracle: The Growth of Industrial Policy*. Stanford University Press, Stanford California, 1982. Though this quote was in reference to concept of Japan’s ‘developmental’ state as a replicable model of other, emerging East Asian (and abroad) countries, it’s merit rings true for the debate of ‘modeling’ development and reconstruction.

Continue with consideration of the role of the Supervisor. Today, much of the District's success may be attributed this authority: the enabled influx of ad hoc, locally designed US grants; the projection of a stability in the District such that international investors were attracted to Brcko; the institution and support of other reform bodies such as the BLRC; and in some cases (such as Henry Clarke's role in Brcko's privatization process) the direct authorship of reforms. From these examples alone one is inclined to pronounce the institution of a civic authority a success, deduce an extractible model and propose its implementation in foreign scenarios which appear similar in scope and profile. Yet, a haste judgment neglects the important evaluation of the legacy of this instrument of development. Will the removal of the Supervisor incite chaos tantamount to the stability achieved through its institution? Such a brash projection of failure is an error equal and opposite of the assumptions of institutional abstraction - institutional defeatism is equally warranted. However, middle-ground repercussions may prove problematic as well. Even if the withdrawal of the Supervisor transpires without immediate consequence, will sufficient and capable local leadership rise to fill the power void? Or has a tradition of dependence been too deeply engrained?

An example with similar such potential negative externalities was referenced earlier in discussion of institutions targeting improved public engagement. At present the Public Information Office, public hearings and the one-stop-shops have improved the quality of life in the Brcko District. However, perhaps it is too early to judge whether these reforms have been met with genuine institutional development or merely the enthusiasm of a reformist community fueled by the need to reconstruct. Were these reforms to cease to function properly they may incite public unrest. Perhaps, the PIO were to lose funding, or public officials were unreceptive at public hearings, or the one-stop-shops became corrupt, charging fees for faster service. It is possible that there was a key element missing in the implementation of these programs that could have more successfully fostered the

naturalization process of reforms and the sustainability of their achievements. Given sufficient extended engagement, this element may have been detected and the reform compensated accordingly. However, were these reforms prematurely deemed successful and immediately applied to another region, the further gain of improving the odds of sustainability would be lost. The presumption of progress, to a certain extent, assumes a process of naturalization. Where in some instances the naturalization of reforms is a reasonable expectation, in others it may falter. To assume that naturalization will immediately and effectively follow implementation creates a margin of error in the development process.

The concept of crafting an institution on an absolute ‘model’ has the tendency to neglect the peculiarities of case specifics, presuppose sustainability where it remains uncertain, and compromise the intended results of the transferred instrument. In the case of US engagement in the Brcko District, these peculiarities were plentiful and, most often, advantageous. Reference to the quantity and delivery quality of US assistance is, perhaps, the most common advantage alluded to by critics of transferability. This issue and others were raised by participants in a 2002 Symposium on Local Governance.

*Brcko’s Symposium on Local Governance*

Between July 9<sup>th</sup> and July 10<sup>th</sup> of 2002 the Brcko District Government and the DMT held a symposium on this exact topic, entitled “The Brcko Experience: Innovations in Local Government Management.” The symposium was attended by some 70 participants representing 25 municipalities, two cantons, the RS Ministry of Justice and a host of implementing organizations and contractors.<sup>200</sup> The organization of the Symposium and the perspective of those from Brcko (locals and internationals) suggests implementers and civilians living in the District have faith in the applicability of the reforms they’ve utilized. Transferability, however, requires both origin and destination - the receptiveness of many of the attendees (local officials and public servants from neighboring municipalities) was less

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<sup>200</sup> “The Brcko Experience: Innovations in Local Government.” A Paper Organized by the Brcko District Government in Cooperation with the District Management Team. July 2002.

encouraging. Furthermore, many of the apprehensions vocalized at this conference were echoed in another Conference of Mayors and Civil Society hosted by Brcko in April 2005.

Many mayors expressed their apprehension that because the progress made in Brcko is heavily reliant on the “American style system of local government organization” it will not translate to an alternative setting. By this reference the mayors identify the significance of Brcko’s autonomy from the cantonal, entity and national governments and the subsequent power that resides in the public administration to address local issues. Brcko, until this imminent introduction of the VAT, has administered and retained its own taxes. This responsibility - allotted via the mandate that Brcko report directly to the national government rather than an intermediary - has exempt Brcko from the inefficiency of supporting a Cantonal or Entity government. Supporting these intermediary administrations is a major financial drain on current local governments, at time a crippling cost and time requirement. On average, 60% of tax revenues throughout BiH go to sustaining these mid-level administrations. Indeed, for local governance reform in municipalities operating within the current Cantonal system to provide truly pervasive improvements, the Cantonal structure and its authority over local, municipal powers must be reevaluated.<sup>201</sup> Furthermore, these superior levels of government limit the acting authority other local governments in BiH whereas in Brcko the Mayor operates with an authority more akin to that delegated to the Mayor of an American city. The Mayor of Brcko, in fact, is one of the highest paid public officials in Bosnia; at one point in 2005 the Mayor of Brcko had a 4,000KM salary, the greatest of any public official in BiH.<sup>202</sup>

Another concern surfaced by attendants of the Symposium and repeated at the mayor’s conference targeted the responsiveness of BiH citizens. Political leaders of neighboring municipalities cited public hearing attendance and Brcko’s voter-turnout ratio (64% in 2004

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<sup>201</sup> “Local Governance Assessment and Policy Recommendations.” USAID. November 2003.

<sup>202</sup> Interview. Vlado Matijevic. 20 April 2005.

elections) to claim that Brcko citizens are simply more reactive to reform. While the mayors' claim was visible in the enthusiasm of the residents at police reform hearing, an objective observer at this event could have equally interpreted this as a reflection of "more reactive" local authorities (in this case a EUFOR officer and two OHR representatives) communicating with District citizens. As with elections, public hearings, and most nearly any other reform, public responsiveness is proportional, to varying degrees, to active government engagement.

Easily the most ardent argument against the transferability of reforms made in the District is that other municipalities quite simply do not have equal funding. However, to recognize only the extraordinary financial assistance directed towards the District is to only see part of the picture. Brcko refutes this charge on several levels. First, the reciprocal half of this picture justifies these specialized funds necessary to combat the problems exclusive to the District. At the most fundamental level, the process of consolidating three ethnically based governments into one administration was a challenge, unique within BiH to Brcko, levied on Brcko that required additional financial aid. Second, while the District enjoyed early, intensive assistance, non-Brcko municipalities are privy to funding from international donors which is made unavailable to the District. Examples cited earlier include WTO and IMF loans.<sup>203</sup> Last, and most pertinent to the transferability discussion, is the significance and implications of the work of USAID contractors. DMT and PADCO projects refute such a claim by demonstrating lost-cost reforms that streamline public services; they engage the public and are self-generating, highly transferable characteristics. Henry Clarke addresses as discharges this claim that the District's development is attributable only to greater resources:

Lots of money has often been cited as the reason for Brcko's successes. International technical assistance - especially US funding for legal, judicial and administrative reforms and many smaller projects - was essential. But the really large sums from international assistance were spent on reconstructing housing and infrastructure, commensurate with the extent of devastation in the District. Unquestionably, Brcko's successful revenue collection - also reflecting foreign technical assistance, not big money - has given the District

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<sup>203</sup> Brcko Law Review Commission, Chairman's Final Report. 31 December 2001. Pg 57.

much larger resources for the needs of the public sector than any other part of Bosnia and Herzegovina. This is one of the payoffs of reform.<sup>204</sup>

Indeed, reform does payoff; numerous projects within the District attest to this fact. But regardless even of self-generating reform, the impossibility of a “copy-and-paste” transfer of the District model does not negate the progress that can be made by taking incremental steps forward utilizing instruments of reform that have proven to be successful. “Goran Duka, OHR/Legal, made this point very clear in the opening session when he emphasized, again and again, that local officials should not pass off the Brcko possibilities because the overall task of change is overwhelming, they should concentrate on the parts and try to help themselves.”<sup>205</sup>

Logically, development work must be conceived with broad perspective and foresight and implemented with great attention paid to detail. Considering the transferability of reforms involves attention to such details. Three years after this local governance symposium, over coffee in the kavanica adjoining that same Posavina Hotel, Richard Robertson echoed this sentiment concerning PADCO’s work in the region, “You know how to eat an elephant, right?” That answer is simple: malo po malo (little by little).

### **Tools of Transferability: Targets and Instruments**

This thesis has sought to distinguish between the targets and instruments of Brcko’s development specifically for ameliorating discussion of their transfer. The applicability of the reforms made in Brcko is a controversial subject because opponents in the debate both offer valid arguments. On one hand, it is offered that the District is an anomaly in BiH; both its problems and progress are attributable to the specific time and place in which exceptional need was met with extraordinary assistance. On the other hand stands the persuasive picture of Brcko’s recovery to its status quo. The compromise, perhaps, lies in distinguishing which

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<sup>204</sup> Clarke, Henry. *Brcko District: An Example of Progress in the Basic Reforms in Bosnian and Hercegovina*. Speech delivered for East European Studies (EES) at the Woodrow Wilson International Center for Scholars. EES Meeting Report 293. February 4, 2004.

<sup>205</sup> “The Brcko Experience: Innovations in Local Government.” A Paper Organized by the Brcko District Government in Cooperation with the District Management Team. July 2002.



aspects of this recovery are salutary to other development sites, and which are situated within the District.

*Situated Targets and Instruments of Development*

As opponents to the transferability of District reforms are quick to demonstrate, there are a number of components of Brcko's development which are both integral to its success and situated, indefinitely, in the time and place of Brcko's recovery. Predominantly, these factors are specific *instruments* availed to Brcko in the toolbox of development assistance offered by the US and IC. In this author's perspective, the situated instruments most fundamental to the District's success fall into the following categories:

- Military presence offered early, intense and consistent support throughout the process;
- An International Police Force led consolidation of the Brcko District Police Force defused tension within the community and fostered the concept of integration;
- The unprecedented formation of a District under an international Supervisor and the extended engagement of international forces provided the structure, stability and guidance for rapid development;
- The capacity availed to the District through waves of international intervention which authored unique reforms and guided their implementation;
- Brcko's unique status as a sovereign District exempt the community from the burden of support and entertaining Cantonal and Entity governments (though this status is changing);
- An immediate and unparalleled amount of financial assistance was available to the District with flexible conditions allowing for an innovative, ad hoc, locally-oriented implementation process.

As the above listed instruments are situated, immobile within the Brcko District, it must be conceded that other locations may be operating under stricter limitations. Fortunately, fundamental as these instruments were and are to the District's development, their absence is not prohibitive of the transfer of other lessons from Brcko for two reasons. First, the *targets* of these instruments remain, nearly without exception, mobile characteristics of development. For example, other municipalities may not have the funding of interest to provide a civil leader with a military support such as was observed with Brcko's Supervisor and SFOR (now EUFOR) presence. Judicial reform presents another instance where the capital and capacity may be unavailable but the targets of legislative reform are mobile and beneficial. To create

an independent Judiciary operating under consulted officials with budgeted support institutions is indeed capital intensive, yet the concepts behind the laws drafted for the District may be employed elsewhere. Likewise, the instrument of Henry Clarke's privatization process is unique to Brcko, yet the concept of crafting a privatization process which fits the needs of the community in transition is a target worthy and fit for transfer to other transitional economies. Prioritizing mobile targets would perhaps yield a process capable of the success demonstrated in the District. The second reason that limited resources do not preclude the transfer of a benefit from the District experience is the list of situated instruments is not exhaustive. Those listed above are largely instruments of resource. Other instruments, instruments of process, were equally valuable in the District and are potentially transferable.

#### *Salable Targets and Instruments of Development*

The targets of Brcko's development instruments are basic, mobile principles and objectives of post-conflict recovery which may improve the reconstructive process in varied locations. They are fluid concepts which may be translated to countries, counties and local governments of all varieties. They include, but are not limited to the following:

- **A Cooperative, Flexible, Ad Hoc Development Approach**  
From negotiation to naturalization the approach taken in the District has engaged local implementers and citizens in a responsive, constructive dialogue. The ability for local project design and alteration has allowed for efficient use of funds, resources and time.
- **Immediate Recovery of Infrastructure and Encouragement of Refugee Return**  
This early priority is imperative to any future progress in a post-conflict scenario. Re-establishing the community composition and providing the necessary infrastructure to do so is of unparalleled restorative value for the people and place which fell victim to conflict. This fact is held as self evident. Infrastructure and refugee return is also a prerequisite of growth.
- **Integration and An Atmosphere of Equality**  
For countries ridden with ethnic tension, keeping the process of integration and fostering of equality as a constant objective is mandatory for the reconciliation of a community and future

operations. Brcko was most certainly burdened with the challenge of reaching these targets, and has, in practice been successful in consolidation local government, police and schools.

“Where ethnic balance is a key factor... the Brcko experience has much to offer.”<sup>206</sup>

- Principles of Local Government Reform

Throughout the projects enumerated in this thesis the objective of one, more or any combination of the chief principles of local governance has been targeted. These principles include: transparency, efficiency, accountability, public engagement, and self-generation. Keeping these principles as the primary targets of local government would foster a similar development atmosphere, and possibly comparable results, as those in the Brcko District.

- A Just, Pervasive and Enforceable Legal Foundation

The target of establishing the rule of law must be foremost in any development effort. As demonstrated in the work of the BLRC, a functional and just legal foundation empowers the community and protects it from both internal and external threats. That this legal foundation be enforceable requires additional effort from local government, but effort that must not be shortchanged. Many District implementers and civilians alike attribute Brcko’s success to its legal foundation.

- Economic Revitalization as a Constant Priority

The livelihood of a community. All targets and instruments *can* contribute or detract from the objective of economic revitalization, and each reform *should*. This has been the modus operandi of development in the Brcko District and its success is self-evident. This priority must be applied to development efforts elsewhere if they are to be effective and sustainable.

- The Fostering of a Civil Society

This final target of development in the District is untenable in measure and, most often, even in implementation. Instruments which foster civil society and a naturalization of reforms are as unique as the setting in which they are employed. However, the target of empowering an active and inquisitive civil society capable of naturalization and upholding the community's developments is one that must be an objective of every development engagement.

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<sup>206</sup> “Brcko District: Experiment to Experience.” William Sommers, Chief of Party, DMT. April 2002. pp 10

This final salable target raises a broader target which is rendered *immobile* by definition: the naturalization process. The internalization of external reform must be a process unique to each community. Likewise, the initiative to claim ownership to the achievements of development efforts must be of local origin – such a capacity is not transferable. The ability to naturalize the reform effort may be manifest in any variety of ways. One particular instance within the District is the procurement of funds. An understanding of how to go about obtaining the funds for local reform is, at times, the first step in catalyzing change. Perhaps what Brcko has benefited most from is the awareness of, and capacity to capitalize on all of its resources. In fact, Brcko is more limited than its neighbors in its range of benefactors. Where Brcko has often been neglected because of its unique status, programs via the World Bank and the IMF and independent donors would and could provide the necessary resources for small budget programs that would have broad, enduring benefits for communities in BiH. Knowing where to get this money, and then how to apply it in the most capital-efficient, return-rich manner is what drives communities towards self dependence. While the ability to find such resources may be taught, the initiative to draw from them must be local.

Another such example of capacity within the District to naturalize even the development *process* is demonstrable in the Symposium on Local Governance. The action, of simply holding such a symposium, is a vote of confidence for the faith that the organizers have in District reforms. Brcko's leadership role in transmitting some of these reforms through surrounding municipalities could be one of the greatest outcomes of the efforts made in the District. While the best consultants can offer invaluable guidance and innovation, advice from those with common background is still most constructive. The possibility of such

promulgation offers fresh support to the feasible transfer of development efforts and accomplishment in Brcko.<sup>207</sup>

These transferable targets are worthy and efficacious guidelines adhered to in the District and beneficial in future development engagement. Yet more concrete benefits stand to be gained from the unique case of extended US engagement in Brcko, BiH. The more tangible benefits come in the form of mobile *instruments*. Identifying mobile instruments can be a complex matter. This thesis has sought to do so through the measure of two key elements in development: income generation and engagement with the public. The former quality insures the reform instrument is both worthy of its investment and host community; reforms which do not generate revenue risk wasting time, resources, and the opportunity for action. The latter quality may be either the focus of the reform or a positive externality, but its existence can contribute to the integrity of the reform. Thus armed with the tools to identify mobile instruments, an analysis of intra-BiH applicability does just that.

### **Intra-BiH Applicability**

The applicability of reforms in Brcko to other localities has been a common concept within the District for some time. At the end of his contract, the DMT Manager William Sommers wrote and spoke to the topic of the transferability of Brcko reforms to other municipalities and even entire countries of the former Soviet Union. He recognized the wealth of startup capital as distinctive of the District, but supported none-the-less the applicability of specific instruments in New Independent States:

While the Brcko District government has a unique quality... many of its experiences ... can be transferred and put into practice – in whole, in part, or adaptations to fit specific circumstances. The Budget process, for example, is relatively direct, transparent and understandable as is the budget law that sets out the process... The Single Revenue Fund Account is not new to local government finance – its full implementation and widespread usage in the Brcko District may be seen, not as a unique feature, but rather as a model

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<sup>207</sup> Interview. Marinko Sakic. USAID Democracy Project. 29 April, 2005.

which many local governments can use in achieving an improved, controlled and accountable receipt and expenditure system.<sup>208</sup>

Sommers surfaces projects of potential transferability, but before addressing these, it is heartening to turn to the portfolio of PADCO's projects. Many of the projects endorsed by DAI (and implemented by contracted PADCO) reforms were simultaneously enacted throughout municipalities and Cantons in BiH. These offer example of projects with proven applicability on a wider scope.

#### *PADCO's Mobile Projects*

Aspects of the development process in Brcko not only can, but already *are* being applied to other areas of BiH. PADCO itself has been active in leading the reform of local governments in surrounding municipalities. USAID's primary contractor in BiH, DAI, has projects operational throughout northern BiH. The Government Accountability Project (GAP) centered in Banja Luka is a prime example of a project already implemented in other localities in Northern BiH. Robertson spoke to this dual responsibility and role of PADCO:

One [responsibility] is to provide city management advice to Brcko District, specifically, and the second is we have eleven other municipalities that we've worked in in the Northeast, and Northern part of BiH going all the way South to Zvornik and all the way North and West to Prijedor. As the former city manager, chief of project I had two responsibilities, one, Brcko advisory work, and two, oversee the project and implement all the things we're doing in the other municipalities. A lot of those things are things that were done in Brcko early on. Because of the unique circumstance of the arbitration award, Brcko has special status and the first contract that USAID had here was to Brcko only, it was a company called DAI, PADCO was partner in that project.<sup>209</sup>

He continued to explain that some of the most simple yet largely influential changes are already in place. He lists the one-stop shops, transparent administrative practice, and a streamlined, more efficient and fiscally sound budget system as innovations that exist throughout the municipalities under PADCO's jurisdiction. The Capital Needs Budget, which has brought such remarkable fiscal reform to the District government, has been transferred to

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<sup>208</sup> "Brcko District: Experiment to Experience." William Sommers, Chief of Party, DMT. April 2002

<sup>209</sup> Interview. Richard Robertson, Team Manager of PADCO. 22 April, 2005.

eleven different municipalities. These projects embody such indicator of sustainability and transferability as public engagement and self-generation. Robertson speaks further to the scope of these projects and surfaces another key priority of mobile development instruments

Well, let's start by saying that in some cases the progress that we've made in the municipalities has been enormous in a very small, local context. Municipalities like Zvornik, Samac, Odzak, Orasja, Vukovac, Srbsrenik, Derventa, Brod, Prnjavor and Prijedor... we've brought things there that they've never had before in the way of tangible implementation of transparency. And making it easier for the citizen to visit and use their local government.<sup>210</sup>

Thus, as regards identifying potentially transferable instruments, PADCO's experience attests to the hypothesis that development tactics which aim to foster public engagement, self-sustainability and transparency in local government are feasibly mobile. These qualifiers established, one may make a more convincing argument for the transferability of development instruments within the District yet to be applied elsewhere. These instruments hail largely from the portfolio of developments assisted by DMT during the early, formative years of the District. Once again, they may be categorized into three focus areas: structural renovations, process innovations and legal foundations.

### *Structural Renovations*

Structural reforms do not refer exclusively to physical, capital-intensive construction within the District. There were many labor-intensive reforms that provided structural support of a more organizational nature equally crucial to progress in Brcko. These may be observed in fiscal reforms and institutions of public engagement.

A new budget process including the production of a Capital Needs Budget and the establishment of the Tax Administration Agency (originally District Revenue Agency) and its operation of a Single Revenue Account are all cost-effect reforms that should, and can be made in other regions. "The Revenue Agency concept is an innovation that can be easily

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<sup>210</sup> Interview. Richard Robertson, Team Manager of PADCO. 22 April, 2005.

transplanted since it is based on acceptable logic by which tax administration and revenue collections functions provide a good balance for the strong administrative operation.”<sup>211</sup> The TAA is a crucial reform in the argument for the transferability of the Districts development process because not only is it of itself a mobile development instrument, but further, it supports the explanation that the District’s development is self-generation and not just the sum of financial aid. The TAA deflates the perception held outside of Brcko that the District is merely privy to an abundance of resources. One interviewee, who wished to remain anonymous, explained it bluntly.

That’s what people, I think, realize is an advantage of being in the District. [Others] mistake that for a guarantee ... they felt that because we are the District we have money; no it’s because the tax authority does their job... Outside the District, they just think we have this money tree that we pick from, they don’t understand that our inspections work 24/7 as opposed to theirs which do the two inspections and have a two hour coffee break everyday.

These reforms are practical adjustments. They are a mode of conduct, an improvement in efficiency, an expression of diligence and conscientiousness at an administrative level. If a bureaucracy exists, organize it such that it is conducive to inter-departmental cooperation. If taxes are to be collected, ensure that the system be a regulated one operating from a single budget. Principles such as these may be understood as self-evident in well-developed administrative bodies, but in young, recovering, transitional local governments they often demand the extra effort that falls victim to either prioritization of grandeur objectives or distortion and corruption.

The same principles and work ethic displayed in fiscal renovations should be embodied in institutions of public engagement. Here, the distinction between targets and instruments allows for discernable lessons where expenses or resources may preclude the transfer of instruments. The Department of Public Records, for example, operates with a computerized network of data to ensure the transparency and accessibility of public

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<sup>211</sup> “Brcko District: Experiment to Experience.” William Sommers, Chief of Party, DMT. April 2002



information between stations located throughout Brcko. While this computer system may not be available for every municipality in BiH, the “approach is one that can be replicated by other communities who are organized to implement”.<sup>212</sup> Likewise the Appellate Board which enables the citizens to appeal the District’s ruling is a rather expensive institution to establish, however the Citizens Complaint System which compliments the objective of the Appellate Board is “more easily transferred; it requires a staff, a format and diligent follow-up to see that the complaints result in timely response and, where necessary, immediate action.”<sup>213</sup> This means of improving public engagement introduces mobile process innovations.

### *Process Innovations*

The promotion of a process is more challenging than it first appears. It requires the apt conveyance, reception and implementation of novel concepts and practices. Yet, while this challenge is formidable, it is not insurmountable. While consulting fees may be unavailable and supervisors scarce, there are no start-up fees for efficient governance. Thus established, process innovations made in Brcko’s development are most certainly applicable elsewhere. Most notable are a new appointment process, budget process, public hearing and practices of the Utilities Department.

The requirements Brcko faced in consolidating three ethnically-based governments into one District administration were uniquely challenging. To fill the positions created DMT and Brcko officials adhered to a spirit of integration, equality and transparency described earlier as transferable objectives. Appointing new officials was a nine step process of advertisement, application receipt, review, interview panel appointment, interview arrangement, interviews, candidate selection, candidate recommendation to OHR-Brcko, appointment and notification, and finally, the appointment of department chairs. “The system is not difficult to understand and easily transferable... moreover, it can be adapted for use by

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<sup>212</sup> “Brcko District: Experiment to Experience.” William Sommers, Chief of Party, DMT. April 2002. pp 8

<sup>213</sup> Ibid. pp 10.

individual departments and regional governments.”<sup>214</sup> This mobile process of official appointment supports the ethical instatement of qualified government officials. Brcko’s budget process, also, improves transparency, accountability and efficiency in the District.

The improved budget process within the Brcko District, just at the institution of the TAA, has been fundamental in improving the efficiency, transparency and accountability of the Brcko Districts financial dealings. Brcko laid claim to the first balanced budget in BiH through five mobile process innovations.

- A clear budget process for both proposal an implementation
- Authorization for the Mayor to issue a budget manual and a new purchasing regulations
- Authorization for the five year Capitol Needs Budget
- Saving clause that gives annual capital needs appropriations a three year life
- Rules for the transfer of funds between accounts within the same department<sup>215</sup>

Without excessively detailing the effects of each innovation, it is clear that these elements of Brcko’s budget improve the transparency of operation and efficiency of management. While, again, this kind of change requires government diligence and capacity, they are process improvement that should be replicable outside the District. Project manager William Sommers attests to their efficacy and mobility:

The process can be easily adapted and the budget law itself can be rearranged to fit national, regional and local needs... Moreover, the Five Year Capitol Needs Budget can become a community planning tool by which priority capitol projects can be identified, estimated and pit into a year-by-year perspective, initiating a commitment to the community that something will be done.<sup>216</sup>

Another example of a mobile innovation in community outreach is the institution of public hearings. The role of the public hearings held in Brcko has been demonstrated throughout this thesis. Here, it is important to emphasize the fact that public hearings, like all process innovations, require no initial capital or tangible barriers to implementation. Granted, for them to be orchestrated effectively and efficiently the organization officials must

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<sup>214</sup> “Brcko District: Experiment to Experience.” William Sommers, Chief of Party, DMT. April 2002. pp 4

<sup>215</sup> Ibid. pp 5

<sup>216</sup> Ibid. pp 5

demonstrate sincerity, receptiveness and the capacity to act on the expressed concerns. These challenges may complicate the process upon early implementation. However, the ability of other governments to create an organic system of public hearings tailored to the needs of their communities affords them flexibility and confirms that “the increased use of public hearings is an innovation that can be easily replicated”.<sup>217</sup>

Two particular operations of the Utilities Department display mobile process innovations: the public awareness campaign and the tender process. Utilities reform was initiated in the spirit of public engagement through an awareness campaign. Gorljub Ljubljanovic and Suada Catovic created a public awareness campaign to foster communication between the District and its constituents as well as to promote awareness for environmental protection. Project implementation also demonstrated mobile reform and, in fact, offered another detractor from the charge that the District has always benefited from extraordinary financial assistance. To the contrary, the USAID reconstruction funding for the project ran only through 2003, while the pressing utility needs required expenses be covered through 2004. USAID transitions the cost of the water project to the District and the Department birthed a cost-efficient mode of tender advertisement. The resultant “design and build concept” invited applicants to design their own problem-solving project, thus eliminating the weighty cost of commissioning a design analysis. “The ‘design and build concept’, the results of careful budgeting and finance management, along with a consistent reliance on public hearings and public interchange [resulted in] the good results demonstrated by this experience.”<sup>218</sup>

Many of the innovations in local governance were founded on the Laws of Executive Authority and District Assembly as drafted by the BLRC. As demonstrated in the chapter on the BLRC, a legal foundation which fosters government transparency, accountability and

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<sup>217</sup> Ibid. pp 9

<sup>218</sup> “Brcko District: Experiment to Experience.” William Sommers, Chief of Party, DMT. April 2002.

encourages economic growth is fundamental to development. Legal foundations, in a capacity similar to the transferability of process innovation, may also prove to be mobile.

### *Legal Foundations*

Judicial Reform has been a double-edged sword. Though a fundamental aspect of *sustainable* developments within the District, “its *replication* is not an easy matter since it calls for the drastic realignment of traditional ways of organizing the courts and appointing its staff”.<sup>219</sup> Resources for such an undertaking, admittedly, are limited and would certainly be identified by BiH political leaders as prohibitive of transferability. Yet, the inability to conceive of, construct and fund an independent courthouse does not preclude the transferability of other, hugely empowering legal reforms drafted by the BLRC. Indeed these are among the most mobile and imitable development projects that may be observed in the experience of the District.

Legislation that fosters economic growth or encourages government transparency can be a low cost effort with large-scale returns. These are the kind of endeavors that the Brcko District has taken that will have lasting effects, and are self-generating in and of themselves. Other municipalities need learn (perhaps through symposia and conferences as have already been held in the District) how to access and apply these resources in their own context. The Chapter on activity of the BLRC has detailed the origins and potential transferability of many of the laws past. It emphasized, in particular, the mobility of the Law on Criminal, Law on Civil Procedure, the Law on Ownership and other Property Rights and the Law on Register of Land and Rights to Land. While the first of these laws fosters a sense of equitable and transparent justice and security, the second supports the effort to revitalize the economy. These steps taken to transition the District to a market economy were coupled with Brcko’s unique method of privatization. Though authored specifically to meet the needs of the District, it has been demonstrated that the “concepts behind the model described ... could be

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<sup>219</sup> Ibid.

useful to authorities trying to complete privatization in transition countries”.<sup>220</sup> While former Supervisor Clarke has written to the possibility of Brcko’s privatization process to benefit other countries, it should be noted the BiH itself has not employed this privatization process. How then, if at all, has BiH utilized the Brcko Experience?

#### *Applicability to the State Level*

In identifying mobile instruments of reform, a select few of the authors and implementers have attested to the potential benefit they may render to communities broader than municipalities or even entities. Specifically, this thesis has quoted Supervisors, USAID contractors and the Chairman of the Brcko Law Review Commission as supporting the transfer of Brcko reforms to other emerging market economies and post-conflict *nations*. While the application of procedural reforms, such as budget operations, may appear to be easily implemented at any level of government, the increased scope of reforming national government operations amplifies the costs, risk and potential benefit of such development. This is, perhaps, one reason BiH has been slow to embrace the implementation of a broad collection of reforms from Brcko. The District’s comparative size enables Brcko officials to see results faster and react accordingly. For example, the formation and implementation of Brcko’s privatization was such that by the time the method had rendered positive results in the District, BiH had already established and initiated its own privatization method. Yet, Brcko’s method of privatization is but one instrument of development in the District. Though its transferability was not possible on a national level, the application of other instruments was.

Perhaps the most transferable reforms from Brcko to influence the development of BiH are other forms of legislative revision. Many legal innovations have been transposed and many more are being offered as guidelines for future BiH reform. OHR-Brcko’s Economic Advisor spoke to this effect:

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<sup>220</sup> Clarke, Henry. *Privatization in Brcko District: Why It Is Different and Why It Works*. East European Studies at the Woodrow Wilson International Center for Scholars. Washington DC, April 2004. Pg 15.

I also agree with that [that aspects of Brcko's development could be transplanted in other BiH governments] because some of them are, for example legal reform, what we have done with our existing legal frameworks and laws, numerous laws, which have been basically copied on a state level, directly. *So it is applicable.* And certain projects the OHR is pushing in terms of health, for example, is certainly applicable, because the environment that was so much different before, it is now more... harmonized at that level and there is willingness to adapt or to change into something that is more appropriate, that has been proven as beneficial. So certainly some aspects of Brcko District, investments and results in Brcko District, can be applicable elsewhere and has been proven as beneficial elsewhere.<sup>221</sup>

But what of even further appliance of the Brcko model to BiH that has not already been attempted? One could easily point to the education laws and system reform, or the budget process, and question why these enormously successful ventures from Brcko have not yet been exhibited at a national level. Perhaps, optimistically, they may be. The process of reform on a national level and entity level is an expansive undertaking. Not only are results are slower to reveal themselves, and the distribution of effects is equally as sluggish. Consequently the public may feel less directly effected, engaged and invested in the reform. Yet, Brcko has demonstrated that communities that sustain the growing pains of these reforms *will* indeed reap the benefits - it is now a matter of whether the bigger government levels, and citizens under their jurisdiction, can absorb the transition period.

The discussion of transferring the Brcko model to national level government widens the potential reach of mobile instruments of development. If the reforms in Brcko have proven transferable within Bosnia on a municipal and national scale, it is logical to suppose they hold potential for other foreign sites.

### **Extra-BiH Applicability:**

The salable targets and instruments above offer a persuasive argument for the applicability of individual reforms. However, the conditions set by the theoretical complications of transferability remain: institutional abstraction may still yield unanticipated

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<sup>221</sup> Interview. Natasha Predojevic and Edin Agic, OHR Brcko. 25 April, 2005.

results; the presumption of sustainability still complicates the identification of reforms worthy of transfer; the significance of situated reforms still warrants concern over the stability of mobile instruments; and finally, the unknown reception of the destination is cause for apprehension. This final consideration of transferability remains of utmost importance to the success of transferred development reforms. Where they are received willingly and enthusiastically, reforms from Brcko may yield positive results. However, where reservations may detract from the public's investment in the reform and doubt may cloud their proper implementation, the transfer of "the Brcko Model" could guarantee no more than a host of unknowns.

The significance of the destination limits the discussion herein of Brcko's application to foreign governments, be they local or national. As this thesis is about the responsibilities and implication of US extended engagement, and not a comparative study of post-conflict transitional economies, a thorough analysis of potential destinations for extra-BiH applicability would be a diversion. It would be irresponsible to project the success transfer of reform instruments without an equal explanation of the setting and parameters of the destination as has been herein divulged for the District. At the same time, a discussion of the implications of US extended engagement in Brcko would be incomplete without a topical introduction to the possible span of its mobile instruments. Therefore, the potential for the Brcko experience to bear results as a replicable model will begin with a brief exploration of historical justification for an internationally supervised territory (IST) and then consider the potential destinations of the Brcko Model currently being discussed.

#### *Historical Justification of International Supervised Territories*

The Brcko District is the only of its exact profile and composition yet the model exercised therein sits on a wide-ranging spectrum of ISTs. The profiles and parameters which define such territories range in scope and structure. The early, and most directly linked to Brcko, is that of the District of Columbia. The Free City of Danzig, also, offers historical

president for an internationally supervised District. Post WWII era examples and current UN operations are pertinent as reflections of ISTs, though less relevant to the consideration of a District, specifically.

First and foremost, as mentioned in the history of the District's arbitration, is the District of Columbia. The reconciliation of a territorial contest between Maryland and Virginia was, in fact, the inspiration for the District. Robert's Owens considered the motion of the two states cessation of "territory to the national government in order to allow the creation of a 'federal enclave,' and he considered that perhaps Brcko could be removed from the governing jurisdiction of the two Bosnian entities and thus become an independent District."<sup>222</sup> While the creation of the District of Columbia inspired the structure of the District, the model in Brcko had to be substantially altered to reconcile the challenges of post-ethnic war recovery and a transitional economy. Thus the District of Columbia, though the stimulus of creation for Brcko's structure, stands peripheral to the precedent set in the District for responding to the challenges of post-conflict transitional communities managing ethnic tensions.

The next notable historical form of such an IST appears in 1920 within the Treaty of Versailles and the establishment of the "Free City of Danzig." A timeless port on the Baltic Sea, Danzig has been considered the "key to the Vistula Basin" throughout ages of contention between warring parties ranging from Teutonic Knights to Napoleon and Alexander.<sup>223</sup> Though a nominally Polish port, the city had a predominantly German population. The close of WWI, therefore, raised the challenge of protecting both the security of Danzig's civilians and the vitally strategic access of Poland to this Baltic gateway. The League of Nations drafted a governing constitution for the port and empowered a Constituent Assembly to

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<sup>222</sup> Farrand, Peter. "Lessons from Brcko: Necessary Components for Future Internationally Supervised Territories." *15 Emory International Law Review* 529. Fall, 2001.

<sup>223</sup> Van Cleef, Eugene. "Danzig and Gdynia." American Geographical Society. *Geographical Review*, Vol. 23, No. 1. (Jan., 1933), pp. 101-107.

Sourced: JSTOR. <http://www.jstor.org/view>. Website Verified: 15 April 2006.



conduct administrative matters. Poland retained limited powers over matters such as foreign affairs, though the Permanent Court of International Justice recognized the city as a fully independent state in 1932.<sup>224</sup> This status lasted a near 20 years, though for the citizens of Danzig, “the question of relative benefits presumably is debatable.”<sup>225</sup> While Danzig is often considered among the closest of Brcko’s historical resemblances, the differences between the two are blatant and bold. Namely, Danzig did not *consolidate* ethnically contentious governments, police forces or school systems. It did not manage the transition of an economy nor did it draft formative legislation. While it had a High Commissioner, the position lacked the authority of Brcko’s Supervisor, drastically altering the balance of power in the state.<sup>226</sup>

WWII marked the end of the Free City of Danzig - the end of WWII birthed a new continuum of ISTs. For example, the Potsdam Declaration declared the international supervision of Germany and the “International Zone of Tangier”<sup>227</sup> and, upon the creation of the United Nations in 1945, a host of former League of Nation Mandates became UN Trust Territories. However, to blend the conception of UN Trust Territories with the aim of the District (post-conflict reconstruction and recovery to self-sustainability) would be an error in classification. Further, to list the litany of different IST forms, foci and locations would be an equal disservice to the objective of exploring the extended engagement in Brcko, BiH. Yet, knowledge of the existence of varying forms of ISTs as a means to achieve cease-fire, post-conflict recovery, prolonged stability, and other objectives does bolster the argument for the transferability of the “Brcko Model” in its entirety. For further reading on the subject of “International Territorial Administration,” the author recommends the works of Ralph

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<sup>224</sup> Farrand, Peter. “Lessons from Brcko: Necessary Components for Future Internationally Supervised Territories.” *15 Emory International Law Review* 529. Fall, 2001.

<sup>225</sup> Supra 224.

Sourced: JSTOR. <http://www.jstor.org/view>. Website Verified: 15 April 2006.

<sup>226</sup> Whomerley, C. A. “The International Legal Status of Gdansk, Klaipeda and the Former East Prussia. *The International and Comparative Law Quarterly*, Vol. 42, No. 4. (Oct., 1993), pp. 919-928.

<sup>227</sup> The Potsdam Declaration. US Department of State, Senate Committee on Foreign Relations. *The Avalon Project: A Decade of American Foreign Policy Basic Documents, 1941-1949*. 1997  
Sourced: Yale Law, [www.yale.edu/lawweb/avalon/decade](http://www.yale.edu/lawweb/avalon/decade). Website Verification: 15 April 2006.

Wilde.<sup>228</sup> A turn, now to current speculation of the transferability of the Brcko Model, explores the effects that US extended engagement may have on unintended targets.

### *Current Considerations*

The transfer of the “Brcko Model,” in as full a capacity as possible, is currently being considered as a possible alternative to underperforming reconciliation and development methods in other post-conflict transitional societies. At a conference titled “Brcko: Durable Model for Peace” hosted by George Mason University’s Peace Operation Policy Program issues of transferability and potential destinations were discussed by scholars, former Ambassadors, members of the Department of State and Department of Defense, and others active and interested in US extended engagement in the District. The Brcko Model was discussed as having the greatest potential match with Mitrovica, Kosovo and Kirkuk Iraq. Skepticism regarding the transfer of the “Brcko Model” to Mostar, BiH was also voiced.

### *Mitrovica: Regional Benefits?*

Before the war Mitrovica was a multiethnic, economic generator responsible either directly or indirectly for much of the employment in Northern Kosovo. Today it is a divided territory under heavily international presence and wrought with political, economic and social hardship. Refugee and property return has been largely non-existent. For the Serbs of North Mitrovica, the urban center is a crucial administrative base and represents among the last of the Serbian strategic holds in Kosovo. Subsequently, freedom of movement between Northern Mitrovica and the southern, Albanian-controlled territory of Zvecan is imperceptible, if not non-existent. Riots following the 2004 deaths of two Albanian boys near the Mitrovica border reflect the intensity of tension alive today.<sup>229</sup> The current UNMIK presence has achieve little progress in the reconciliation of this divided region. From the

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<sup>228</sup> Suggested among Wilde’s work includes the following titles: *Representing International Territorial Administration: A Critique of Some Approaches*; *The Complex Role of the Legal Advisor When International Organizations Administer Territory*; *From Danzig to East Timor and Beyond: The Role fo International Territorial Administration*.

<sup>229</sup> Woehrel, Steven. *Kosovo’s Future Status and US Policy*. Congressional Research Service, The Library of Congress. January 27, 2005.

progress that has been demonstrated in Brcko, it may be discerned that a very severe lack of a majority of the mobile targets (such as refugee return, integration, economic revitalization, among others) hinders progress in the Mitrovica region. The call for a change in recovery and development approach has already been made. In a 2004 report in Brussels the European Stability Initiative recommended the following action be taken to wage a new peace in Mitrovica:

- The restoration of property rights and freedom of movement
- The development of a joint development and assistance strategy for Mitrovica and Zvecan
- The transfer of administrative authority for Northern Mitrovica from UNMIK to a multi-ethnic municipality of Zvecan-Mitrovica<sup>230</sup>

The ESI proposal would certainly be consistent with the objective of the Brcko District Model. However, the implementation of a Brcko Model in Mitrovica may prove no more successful than the current international presence. Congressional opinions have consistently encouraged the establishment of an independent Kosovo and the international support to achieve such a status. Though the setting may be apt for transferability, it seems apparent that reception of the concept of a District of Zvecan-Mitrovica, particularly were that District to be reliant on extended US engagement, would be one met with apprehension.

#### *Kirkuk: A Near Match*

The city of Kirkuk offers a profile similar to that of Brcko and thus the most tenably suitable as an internationally supervised district. A city of ancient value ashore the Hasa River, Kirkuk is considered among the capital's of Iraq oil industry. Its economic value to Iraqis, however, is no greater than the cultural and national identity value placed on the site by the Kurdish population. Considered by two Kurdish parties (the KDP and PUK) to be the capital of a Kurdish state, Kirkuk has often been the most formidable obstacle to resolving the

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<sup>230</sup> *Elements for Negotiations to Make Progress in Mitrovica in 2004*. European Stability Institute, presented at King Baudouin Foundation, Brussels. 11 March 2004.

Kurdish-Iraqi territorial dispute.<sup>231</sup> It is believed by many that “Kirkuk, not the insurgency, is the tipping point between success and failure for the US attempt to introduce democratic rule.”<sup>232</sup> It is not difficult to draw a correspondence between this hotly contested city imbedded in Kurdish history and Iraqi oil field and the economically and geo-strategically placed Brcko District which stalled the peace agreements for Bosnia and Herzegovina.

The most recent Department of State Press Release on the Status of Kirkuk, release on January 13, 2005 states:

Efforts to remedy the unjust policies of the Saddam government in and around Kirkuk, which included the forced deportation of residents, confiscation of property and the manipulation of administrative boundaries, are internal issues for Iraqis to decide. The Transitional Administrative Law (TAL), which was drafted and agreed to by Iraqis, lays out specific steps to undo Saddam Hussein's terrible legacy. The United States supports the full implementation of the Transitional Administrative Law, including Article 58 related to Kirkuk.<sup>233</sup>

Perhaps this position is recognition of the impossibility of the reception or sustainable positive results wrought by an internationally supervised District. Perhaps it is an under appreciation of the intensity and extensiveness required by the situation that has been created in present day Iraq. Without further comparative analysis and investigation into the intentions and available resources required for such an extended engagement it is impossible to estimate how constructive of a solution the transfer of the Brcko District Model would be for Kirkuk. However, the speculation among implementers in Brcko that the District model may hold potential for a conflict such as Kirkuk raises, not only an alternative for the Kurdish-Iraqi conflict, but also the potential transfer of the Brcko Model to regions of entirely different cultural and geographical landscape, such as the Middle East.

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<sup>231</sup>Kirkuk. GlobalSecurity.org. <http://www.globalsecurity.org/military/world/iraq/kirkuk.htm> . 15 April 2006.

<sup>232</sup> Borchgrave, Arnaud. “Iraq’s Tipping Point.” The Washington Times, April 1, 2005. Sourced: Center for Strategic and international Studies, Press Center. Website Verified: 15 April 2006.  
[http://www.csis.org/component/option,com\\_csis\\_press/task,view/id,1316/](http://www.csis.org/component/option,com_csis_press/task,view/id,1316/)

<sup>233</sup> US Policy on the Status of Kirkuk. US Department of State January 13, 2005.  
Source: [www.state.gov/r/pa/prs/ps/2005/40916.htm](http://www.state.gov/r/pa/prs/ps/2005/40916.htm). Website Verified: 15 April 2006.

*Influence of the Balance of Power*

In considering target destinations for the Brcko Model the author entertained possibilities which at first were appealing but upon review appeared most doubtful. These destinations are dubious because, in at least one capacity, there exists a known variable which would preclude the functioning of an independent, internationally supervised District. Namely, each of the examples displays an internal balance of power that would be incompatible with the establishment of an internationally supervised territory. The prospective destination of Mostar is uniquely provocative as an example of a Bosnian city which would be, presumably, incompatible with the Brcko Model.

The case of Mostar, BiH is one such example. While equally aspirant of future integration within BiH, and plagued by an ethnic conflict of the same orchestration, Mostar offers fatal obstacles to the transferability of the Brcko model. First, the window for such opportunity has come and gone. While maybe the formation of a District at the outset could have been successful, Mostar has endured years of international presence without result. Consequently the reception of such a Supervisory is a near impossibility. Secondly, though municipalities within the same countries with citizens that speak the same language and a carry similar heritage, Mostar's bi-ethnic Croat and Bosniak composition is a more caustic demography than the relatively even distribution of Serbs, Bosniaks and Croats found in Brcko. The difference between the balance of power in Brcko and the complete lack-there-of in Mostar preclude the transfer of the Brcko model. One anonymous citizen of the District relayed implications of this difference in ethnic composition between Brcko and Mostar and described the effect it could have on the sustainability of a District Model :

A: So will it even work in Brcko once the internationals leave?

BR: Ehhh. It works, like everywhere when internationals leave... look at Mostar, they beat internationals. But they say, "No, we are so friendly." It's because we're under the pressure here. We are three nations. If you beat somebody here two other nations and all the other people will be against you. But in Mostar for example, there are mostly Croats or in some area where it is one nation with a majority... you can beat anybody, they don't need them.

This testament is exemplary of the ways in which even two cities within the same country, following similar conflict, may be incompatible with one another. Reason for apprehension is even greater when the scale is increased and the unknowns amplified. Such is the case with proposals for a District Model as an alternative for the conflicts in Chechnya, Abkhazia, and Nagorno-Karabakh. With each, the missing element of the balance of power between three contentious parties could have the same implications as the Brcko resident projected for Mostar.

In Brcko three signatories resigned their constituents to international supervision because the District Model presented a guaranteed means to escape the bottom of the pyramid. Such is not the case with Nagorno-Karabakh. This territory has long been contested by two Caucasian countries. It is difficult to conceive of either agreeing to international supervision for a territory of such epic cultural importance to each. The balance of power is skewed, again, in the contest between proponents of Chechen and Abkhaz independence and the resisting Russian forces. In these instances the reception of a great power to the introduction of and internationally supervised territory is unconscionable. The application of the District Model to conflicts considered internal to great powers is a near impossibility. These examples which question the applicability of the Brcko Model in its entirety are extremes, however, and should not be confused with the more realistically transferred mobile targets and instruments illuminated in this chapter.

The transferability of reforms made in Brcko and the applicability of the “Brcko Model” are two different matters, each challenged in theory and in practice. The consideration of each must include a balance of the challenges in identifying mobile reforms and the reception with which they will be introduced with the demonstrated sustainability and transferability of the reform in question. This chapter has explored the theoretical and practical challenges to transferability, identified means to qualify development reforms,

isolated static and potentially salable targets and instruments and discussed the issues surrounding various target destinations. In doing so it has surfaced a variety of opinions from experts in the field regarding the applicability of Brcko's success outside the District.

### *Uncertain Implications*

While the uncertainty of the nature of transferability warrants discrepancy in the opinions of experts, it appears that the transferability of mobile targets and instruments of the District's reform is widely accepted. Former Supervisors as well as local and international implementers have testified to this fact, and indeed the portfolio of PADCO's current projects demonstrates reforms that are simultaneously successful in the District and neighboring governments. Here, DMT Manager William Sommers speaks to this possibility:

Brcko District began as an experiment with a host of known – and unknown – difficulties of a magnitude that became evident as it moved from promulgation to implementation. But the experimental stage has, in fact, turned into an experience of substantial accomplishment. We believe the Brcko Experience is of singular importance in the development of 'a new approach to public administration with flexible models and a new public management culture.' Many of its most important accomplishments can be replicated or transferred for use by CEE [Central and Eastern European] local and regional units of government."<sup>234</sup>

The operative vocabulary in this statement is Sommer's reference to Brcko's "most important accomplishments" as replicable. Indeed, the tune is less harmonious when the transfer in question is the Brcko Model as a whole. While some point to the likenesses between Brcko and potential destinations such as Mitrovica or Kirkuk as reason for endorsement, others find doubt in the mobility of the model based on the extremely unique circumstances of its creation. One OHR-Brcko official (to remain nameless) offers the following reservation:

"I wonder whether the model is transferable at all because I wonder whether there will ever be another circumstance where people agree to it. It wasn't set to referendum, the locals had absolutely no say in it... and who would ever agree to an international supervisory? I would not be surprised if there is never another situation like this."

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<sup>234</sup> "Brcko District: Experiment to Experience." William Sommers, Chief of Party, DMT. April 2002.

Indeed the issues of transferability invite hope and skepticism of varying degrees. This author is of the opinion that the “model” of development in Brcko, as a whole, was a progressively dynamic and reactive approach to resolving the intense post-conflict problems of a very unique *place* at a very specific *time*. For this reason, it is unlikely that the IC and the US will encounter another such setting a situation wherein the entire “model” may be implemented. However, the targets identified in creating this model of development in the District, and a number of the instruments employed to achieve these objectives *are* and in many cases already proven, transferable. Of the mobile *targets* discussed, all should be prioritized in development work. Equally, the *instruments* demonstrated as mobile within the PADCO and DMT portfolios have potential for direct transferability. Thus, the implications of US extended engagement for other conflicts and target destinations have been opened to debate, complex as it may be. Yet, the discussion of the transferability of Brcko’s development reforms also holds implications for the intervening party, in this case, the United States. Issues of transferability, just as issues of sustainability, offer support for the importance of recognizing the implications of extended engagement. A return to further analysis of the nature of the US engagement in Brcko BiH allows for



**A Return to Extended Engagement:  
A Final Look at the Issues and Implications of the US Presence in Brcko Bosnia**

The story of the US role in Brcko, Bosnia's post-conflict reconstruction has a broad audience and varying objectives. To a large extent, it is an inclusive narrative of the recovery of a community torn by ethnic warfare and caught between a socialist market legacy and an emerging market economy. For the people of Brcko and those invested in development in the District, it captures a unique moment in time, in their lives even, and describes the steps that were taken to unify a divided community and set it back on its feet. Due to the nature of its scaled relationship with BiH, Brcko also offers insight into the trajectory of Bosnia as a country. As a locality with similar profile and history, facing like challenges and transformations, the fate of the District is inextricably interwoven with the future of BiH. Further, as an administrative unit of smaller dimension, the effects of its policies appear faster and offer more readily available feedback on targets and instruments of development. Such a scenario invites BiH policymakers to closely monitor the status of the District.

Developments in the District may be of equal interest to policymakers of the intervening state. The experience in Brcko offers an opportunity for academic, policy-oriented benefit. From the earliest stages of peace arbitration, through the implementation of reform to the current negotiations of the Supervisor's withdrawal the United States has been invested in an extended engagement in Brcko. The development of such an engagement, the relative success of its unique targets and instruments, the projected sustainability of its progress, and the feasibility of identifying transferable reforms all contribute to what may be interpreted as a theory on the nature of US development policy and the implied behavior entailed therein. This thesis has addressed each of these issues. It turns now to the implications of extended engagement for Brcko, BiH and the United States.

*The “Scaled Relationship”: Implications for Brcko and BiH*

The implications of US extended engagement for Brcko are a matter of the sustainability of its progress and the inevitability of integration within the Bosnian system. While the former of these issues is within control, to a degree, of the citizens and public officials in Brcko, the latter is an inescapable external threat to Brcko’s relative success. Future implications for Brcko, therefore, along with the legacy of US extended engagement, lie in what will become of the partners in the scaled relationship between BiH and Brcko.

The District hosts a pre-war and post-war population composition similar to BiH. Like BiH the District endured intense ethnic conflict throughout the war in the 1990s, and was faced with the challenge of reconstruction amidst a systemic economic transition. Brcko endured its own arbitration, following which it was placed under the Deputy branch of the same civil administration which directed Bosnia’s national governance. As an autonomous entity, the District tackled infrastructural recovery, refugee return, legal reform, governance reform, privatization and economic revitalization in a manner similar to, though on a smaller scale than, the national government. Indeed the District has been recognized as experiencing similar challenges and considering similar reforms as the national government of BiH – the distinction between the experiences of the two, one could argue, is that the District has been more successful. However, today these partners in this uniquely “scaled relationship” are faced with perhaps their most troubling shared challenge of yet – self-sustainability and integration. As the International Community looks for an exit, Brcko braces for its impending incorporation into the Bosnian national government. Likewise, BiH prepares, or rather aspires, to ascension to the European Union. The events that will follow in the ensuing months will demonstrate the most powerful implications of extended engagement as has been undertaken by the United States in Brcko and the International Community in greater BiH: the repercussions of withdrawal.

*Implications of European Integration*

EU leaders decided that a policy of emergency reconstruction, containment and stabilization was not, in itself, enough to bring lasting peace and stability to Bosnia: only the real possibility of integration into European structures would achieve that.<sup>235</sup>

The above opinion of the Commission of the European Communities relays an opinion, not uncommon through out Bosnia, that the efforts made thus far to broker a peace in BiH have been insufficient to guarantee a lasting stability. While this diagnosis of international reform may hold for BiH as a country, Brcko's progress testifies to the fact that, were it *alone* charged with protection peace and stability within its borders, sustainability would be a very real possibility. This, however, is not the case, and while Brcko has achieved many measures of success in reconstruction, its fate will be nevertheless dependant on the course of BiH.

This thesis has traced the origin, implementation and results of the targets and instruments employed in US extended engagement in the Brcko District. At the beginning of this trail, Brcko was a territory composed of three fractured, ethnically-based communities in desperate need for a means to recovery. At the end of this trail sits a unified, autonomous District with arguably the most successful recovery measurements in all of Bosnia – near full refugee return, the country's only integrated local government, school system and policy force, the highest rate of employment and the highest average salary. Empirically, US extended engagement in Brcko has allowed for record development. Based on this performance alone, an ideal, logical integration of Brcko into BiH could progress as follows: Brcko's demonstrable self-sustainability renders the Final Award fulfilled; the withdrawal of the Supervisor runs concurrently with the withdrawal of the IC from BiH; a national Bosnian government protects the status of the District in a way commensurate with the Final Award and conducive to national operations; stability in the District is guaranteed by the state and

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<sup>235</sup> Commission of the European Communities (2002): The Stabilization and Association Process for Southeast Europe, First Annual Report. Brussels: COM (2002) 163 final, April 4, 2002 p. 4. Sourced: Solioz, Christopher. Bosnia and Herzegovina Beyond Dayton: from Intervention to Integration. Forum for Democratic Alternatives. Working Paper 2. 2004

Brcko reforms prove sustainable. The likelihood of this scenario is highly improbable. The current status of the BiH government, quite simple, precludes it. What alternative can be expected?

*Restructuring or Reconvening*

Many believe that the Final Award will not be fulfilled, and the Supervisory will remain, until BiH is restructured at a national level. For a country the size of West Virginia to have a national system, entities, cantons, municipalities and local governments is both cumbersome and costly. It is no wonder nearly 60% of the GDP of BiH goes simply to “sustaining” the government. The need for reform of the governing national structure was a common opinion expressed regarding the future of BiH and the administration of the municipalities therein. “In BiH only 8% of all public revenues accrue to municipalities in both entities... Entity local government laws, as well as cantonal local government laws, were not designed taking into account which services could be optimally performed at each level of public administration, and the funding necessary for an optimal, or even for the current, construct is *clearly inadequate*, and beyond the control of the municipal level.”<sup>236</sup>

However, it has been suggested that such a development cannot transpire without the convening of international leaders in a conference tantamount to Dayton. One representative from the European Council spoke to this effect at the Mayor's conference:

A: “This problem [Brcko’s arguable dependence on OHR-Brcko] seems inextricably linked to the dependence of BiH on the OHC... it seems as if the future of Brcko and the role of the supervisor can hardly be estimated until Bosnia is politically reorganized.

CoE Rep: “Oh, I completely agree... I think, now this is just my opinion not the words of the Council of Europe, but I think there is going to have to be another international conference, call it what you may.”<sup>237</sup>

Future application for EU membership also offers potential grounds for much needed restructuring. The question of whether Bosnia and Herzegovina will be restructured and

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<sup>236</sup> Ibid.

<sup>237</sup> Mayor’s Conference on Civil Society. April 17, 18, 19 2005.

could make a realistic bid to the European Union is a circular query. Certainly membership with the EU would ameliorate and expedite governance reform and foster economic growth. However, EU accession would require governance reform from local to national levels; Bosnia must demonstrate it has made sustainable progress and can maintain its integrity without international presence. Whether Brcko and BiH are moving towards independence and stability, and whether the Supervisor can foresee a time where the Final Statute may be considered satisfied have become, indeed, questions of great sensitivity, gravity and implication.

#### *Legacy Unknown*

What then of the implications for US extended engagement in Brcko BiH? The demonstrable progress made in Brcko leaves implementers and students of this instance of intervention with the ambition to define, precisely and in an all-encompassing conclusion, what US extended engagement in The District has meant, means now, and implies for the future of Brcko. On account of this the last object, such an assessment is an impossibility. The future of the District and the legacy of US extended engagement therein is clouded by a host of unknowns: unknown threats from external forces, the unknown of its treatment once integrated into BiH, unknown threatens of internal corruption and backsliding on reforms... unknowns. Yet the demonstrated evidence of the District's progress from post-war destruction to its current status gives birth to another genre of future unknowns: unknown *potential* for continued economic growth, unknown *capacity* for further integration and reconciliation, unknown *ability* not only to sustain but to promote the established reforms (as with the Local Symposium), unknown prosperity.

Regardless of the ambiguous destiny of the District and its revelation of US engagement legacy, the certainty of the improved quality of government and quality of living in the District justifies a refreshing degree of optimism for the times that lie ahead. Furthermore, it attests to the positive effect of US extended engagement. While the objective

of this intervention may be a long-run self-sustainability, the impossibility of forecasting this measure does not negate the undeniable benefit to the District and the international community at large. To clarify such an inconclusive and intangible implication for the District, an analogy of the nature of US extended engagement from within the District is perhaps the best explanation.

*The Arizona Analogy*

Arizona Market was once a prosperous meeting point of traders and vendors carrying a variety of goods and hailing from varied backgrounds. Through the war of the early 1990s it decomposed to a center for crime and violence. By the time intervention was made, it had to be drastic. Through the focus of intense resources and energy on behalf of policy makers, concerned citizens and fearless entrepreneurs the market was, not merely returned to its original state, but transformed to a marvel of economic growth in the Brcko District. The future of the market is entirely unclear; the legacy of the reformers is equally undefined. Whether ethnic tension and conflict will challenge it once again, or whether crime and corruption will return amongst its vendors is unknown. What is certain, however, is that what exists today in Arizona Market is a near miraculous improvement upon what stood in its place a few short years ago. Where the opportunity for hostility and transgressions once threatened the Brcko District a catalyst of economic growth and employment opportunity has emerged. The citizens of Brcko and surrounding communities are all the better for it.

The same may be said for the Brcko District and the legacy of US extended engagement. These have been conceptualizations of the implications for the Brcko and BiH. However, extended engagement in Brcko BiH holds equally valuable implications for the citizens and policy makers in the United States.

*Aspects of Extended Engagement: Implications for the United States*

The District, as has been demonstrated, has experienced a relatively successful post-war recovery with the benefit of US extended engagement in development reform. In the years that follow many changes will challenge this apparent success. While there is much room for apprehension concerning the sustainability of Brcko's reforms, there is equal potential for a degree of further benefit to be gained in monitoring the growth of Brcko's development. Accomplishment within the development effort in the District may be interpreted in two different ways: first, in the form of sustained development in Brcko; second, in the form of discernable "best practices" observed in the District that may improve the quality of US development efforts for future engagements. The former has been addressed; the latter is here in question.

Upon considering the evaluation of US extended engagement as an opportunity to discern "best practices" within development, the effort appeared, at first, to be somewhat exploitive of the host community. It seems to risk objectifying the engagement and those it affected. Yet, a deeper understanding of the implications of "best practices" reveal that all parties involved stand the opportunity to gain from a so-called "failed reform." A drafted law, for example, which is not passed by the District Assembly, may reveal a priority of the Brcko community that allows for a more effective approach to future drafts. Or, a privatized company which fails to break into profits may create an opportunity for those involved to streamline business practices for future ventures and gains. Thus, isolating the *instrument* of development allows for the developing and receiving parties to learn and benefit from the reform even if the product is not apparently successful. This instrument may be either mobile or situated. The implications for these transferable instruments have a very particular fit in extended engagement

This thesis has demonstrated that extended engagement, as discerned from US intervention in Brcko BiH, is specific to the time and place of its occurrence. Yet, it has also

demonstrated the feasible transferability of elements of the Brcko Model. To reconcile these contradictions, the author chooses to distinguish between extended engagement *observed* and extended engagement *theory*. The former is a compliment to the latter, though it is in no way restrictive. Extended engagement *observed* employs the inherent fact that best *practices* (targets and instruments) may be discerned from a specific engagement; the latter assumes a *process*, a mode of approach and operation. Extended engagement *observed* acknowledges there may be a pattern of successful development tactics that may be employed in extended engagement *theory*.

#### *Extended Engagement Observed*

Extended engagement observed refers to the salable targets and instruments identified as potentially transferable in chapter six. It acknowledges and utilizes the mobile targets and it entertains the possible applicability of the mobile instruments.

This thesis has detailed the specific tools and instruments unique to the instance of US extended engagement *observed* in Brcko BiH which demonstrate characteristics of sustainability and transferability. It has identified which are static, situated to the time and place of their formation, and which are dynamic, mobile reform efforts that may yield success outside the District. More specifically, extended engagement observed in the District suggests the following mobile targets may benefit future US development intervention:

- A Cooperative, Flexible, Ad Hoc Development Approach
- Immediate Recovery of Infrastructure and the
- Encouragement of Refugee Return
- Integration and An Atmosphere of Equality
- Principles of Local Government Reform
- A Just, Pervasive and Enforceable Legal Foundation
- Economic Revitalization as a Constant Priority
- The Fostering of a Civil Society

Further still, extended engagement observed has identified a host of mobile, salable instruments which have yielded results in the District and which display characteristics of



transferability. These include, but are not limited to the following: a locally administered and targeted supply and demand survey; the drafting process of the BLRC and many of the laws and reforms passed by the BLRC; Brcko's unique privatization process; structural innovations such as budget process reform tax administration reform; innovations in public engagement such as one-stop-shops, a Public Information Office, and public hearings; finally, instruments generating economic growth and opportunity such the Agricultural Incentives Project and The Brcko Economic Development Strategy. Where the United States is faced with the potential intervention in a post-conflict, transitional scenario of similar profile to Brcko Bosnia, action based upon these observations may expedite the development process. Yet, the application of these salable instruments of extended engagement observed is heavily dependant on the profile of the target destination. The limitations of this application have been explored in the chapter on transferability. The likelihood of encountering another Brcko, BiH, is improbable. A post-conflict scenario with similar background, objectives, balance of power and openness for international administration would be a rarity. For broader implications of US engagement in Brcko, one must turn to extended engagement theory.

#### *Extended Engagement Theory*

Extended engagement theory refers less to the results of US intervention and more to the development of engagement, the mode of conduct therein and inevitable responsibilities that follow. Extended engagement theory rests on a set of *practices*, but the series of *processes* integral to the development of the role played by the US in Brcko. In this capacity its scope extends beyond this thesis. It began with the first observation of the crisis and debate over the appropriate response. It will continue for as long as US policymakers are attentive to the developments in Brcko and the implications of US action. Yet this mode of engagement is not a passive existence. It is an active inquisitor and demands the fulfillment of a host of requirements of development intervention.

The primary requirement of extended engagement is that the priority of engagement be first and foremost the achievement of an established goal. In this assumption, extended engagement theory is free from the restriction of a presupposed “exit date.” It is no longer subject to the fickle attention of the media or public opinion. Its resources are reliable, and neither “tied” with expenditure qualifications nor dangled tauntingly as commission for proven “success” as have been limitations of alternative mode of US development policy.<sup>238</sup> This assumption allows for implementers to invest their time, energy and resources in building a collaborative relationship with the local community. Further still, this primary assumption connotes an investment of the implementing parties in the task at hand. It demands dedication to the progression and sustainable success of reconstruction and development and it provides incentives for a flexible, responsive process of policy formation.

The second assumption of extended engagement is a cooperative approach to development, both between agencies and organizations of the intervening countries and between the international and local implementers of reform. Cooperation between the active agencies of the intervening party insures that the overall engagement is performed efficiently, transparently and guarantees that it will be held accountable to the citizens of the engaged countries. Cooperation between host and intervening parties encourages reforms which engage the public and foster civil development. Further, it disarms the potentially fatal possibility of *imposing* an ideology or institution upon a host community.

A final requirement for extended engagement is that the opportunity to observe and learn from the engagement will be maximized. This is a self-perpetuating characteristic; extended engagement both requires and originates from the careful observation of the status and trajectory of a potential site of intervention. This dynamic of extended engagement

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<sup>238</sup> For further reading on current criticisms of US development policy the author recommends works by Nancy Birdsall, Stewart Patrick, and Milan Vaishnav. Of particular relevance to this argument is their co-authored article: *Reforming US Development Policy: Four Critical Fixes*.

embraces and employs an extensive understanding of the *stages of development*. These stages are as follows:

- *Observation and Reaction* to the need for international intervention and of the developments on site in the potential host community;
- *Exploration* of possible solutions to the conflict at hand, exhausting all means of a negotiated peace, multilateral action and potential for local reconstruction;
- *Collaboration* between local and international representative to explore the implications of extended engagement;
- *Formation* of an initial approach and the broader objectives, with the understanding that each is subject to the dynamic variable on site in a developing territory;
- *Implementation* of the established reforms with the cooperation of all parties involved;
- *Acclimation* of the local community to the development reforms, coupled with the patient, vigilant, responsive assistance of the intervening parties.
- *Naturalization*, or lack thereof, of the development reforms.
- *Observation and Reaction* on behalf of those, international and local, engaged in the development effort.

Extended engagement theory establishes that successful international development policy acknowledges the equal significance of each of these stages of development. Most of these concepts are traditionally recognized and integral to successful international development engagement. The final two, however, have introduced nuances and points of emphasis which are pivotal to extended engagement theory.

Within this theory, naturalization is acknowledged to be of no lesser importance than initial policy formation or implementation. Furthermore, it assumes equal responsibility for supporting this process. The chapters on sustainability and transferability detailed the subtleties that distinguish the process of naturalization from internationalization or ownership; the distinguishing characteristic is the *active* execution of the reform process rather than the *passive* acceptance of the external reform, the subject of the action become the host community and not the reform. Extended engagement theory promotes the importance of naturalization however it does not presume its success. For this reason extended engagement theory begins and subsides with *observation and reaction*. These important steps are the bookends that fashion and secure constructive international development. They acknowledge that, in the interest of all parties involved, intervention must be reactive to the changing

dynamics of the site of intervention, compatible with the objectives and best interests of the local community, and ever-vigilant of the lessons that may be discerned.

The theory of extended engagement, however, would be amiss if it neglected the potential for ill-intentioned or weak-spirited intervention. While sustainable development requires that those implementing reforms oversee the formation, implementation and implications of their work, this opens the opportunity for some to either take advantage of their position within the development process or, in their comfort, lose momentum for promoting progress. This danger of extended engagement was, in large part, avoided in the observed case of US involvement in Brcko BiH thanks to the conscientious and honest *manner* of engagement exercised by those active in implementation.

### *The Manner of Engagement*

The unique nature of establishing, from three ethnic based community governments, Europe's only District, and the recognition of all participating parties that they were walking on uncharted ground was an inherent factor of its success. Quite simply, implementers of extended engagement embarked on the process appreciating the work ahead. The successful consultants, such as Sommers and Farrand, did not carry arrogant patronizing attitudes into the new government; rather, there was an atmosphere of cooperation together to tackle the challenge ahead.<sup>239</sup> This addressed the concern by many skeptics of extensive American intervention that extended involvement would create either apathy or an opportunity for the abuse of power on behalf of the intervening party. Such behavior could erode the productivity of development and foster resentment within the host community. Within the Balkans, particularly, this author has observed a stigma surrounding the longevity and questionable productivity of Western assistance. Many claim that the "hotel brigades"<sup>240</sup> of

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<sup>239</sup> Interview. Tanja Mihailovic, former DMT employee. 16 April 2005.

<sup>240</sup> Wedel, Janine R. *Collision and Collusion: The Strange Case of Western Aid to Eastern Europe*. St. Martin's Press, Palgrave Publishers Ltd. 2001

consultants serve to do little other than sustain the consulting industry. The actors in Brcko clearly break from this stereotype. Most citizens of Brcko spoke very highly of the American diplomats in the District and recalled, with a subtle air or reminiscence, the security brought by SFOR troops. Indeed ethical precautions must be in place to guard against the inclination of exporting American democracy regardless of its applicability. This, thanks to well-employed foresight, was never a worry or problem in Brcko as the direction in which the District was headed was always of utmost priority. A long-term OHR-Brcko spoke directly to this point and precaution:

The Americans who were here were always aware that in the long term future BiH will be a part of Europe. And you can not introduce things that are typically American. In particular that BLRC, and others, whenever it has come to creating something new like the judiciary or education reform or any piece of legislation, they have never copied the American way, we have always looked around what's available in Europe or the neighboring countries, and how they are doing.

This quote dispels the concern that extended engagement such as that which transpired in Brcko would necessarily be conflicted with ulterior motives and imperialist intentions. It appears, therefore, that extended engagement when done in the *manner* as it was in the Brcko District – coordinating with international efforts (via OHR), recognizing and prioritizing the direction in which the community is growing and engaging local governments, institutions and people – can hold powerfully positive results for the future of communities in post-conflict transition.

Extended Engagement is not composed of novel concepts. It is not an innovation of modern intervention or an invention of policy makers. In its explanation, the author is not promoting increased instances of international intervention. Rather, extended engagement is an inevitability of effective development work. It is a necessity in post-conflict reconstruction. As demonstrated in Brcko, BiH, where the capacity for such intervention is available, extended engagement may yield positive results. However, where either resources or national interest may be insufficient, even questionably so, intermittent engagement may be expected to have costly repercussions that will be shared by the global community.

In Brcko, BiH extended engagement has been a reality thus far. The United States, the sites of its future inventions and the broader global community would collectively benefit from a development approach corresponding with the observance of the requirements and responsibilities inherent to extended engagement.

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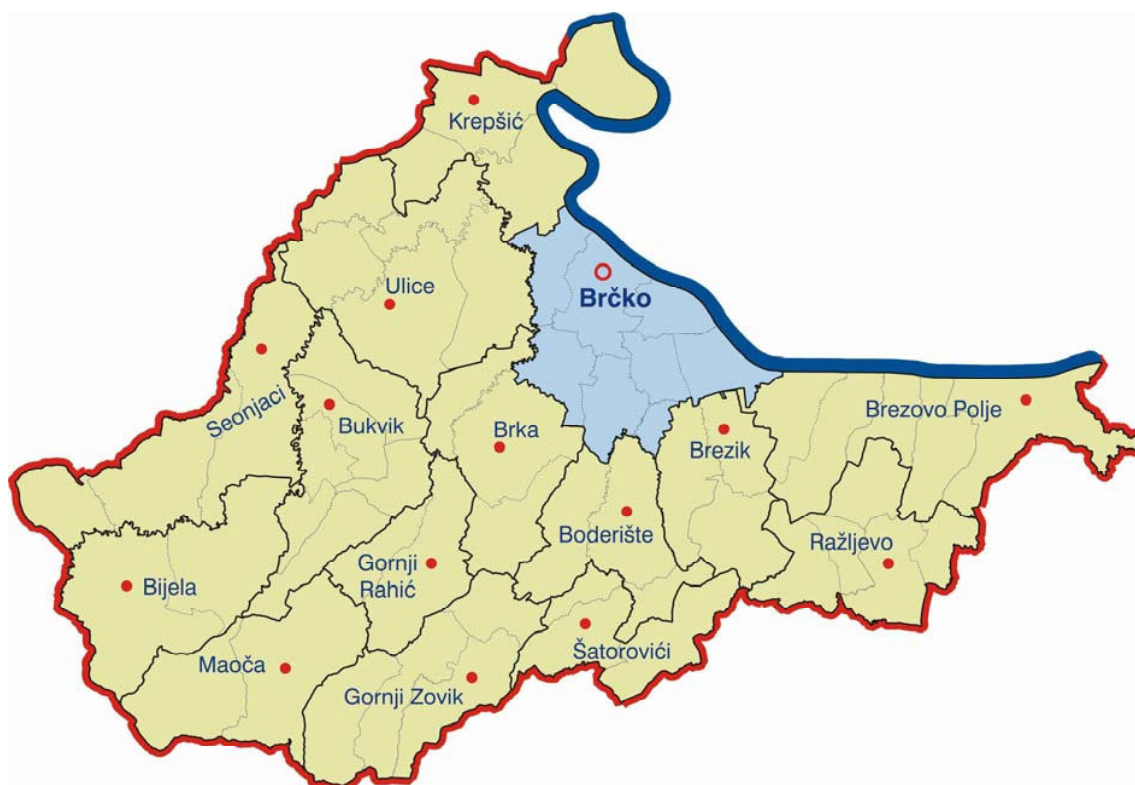
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## Index of Acronyms

BiH – Bosnia and Hercegovina  
BLRC – Brcko Law Review Commission  
DMT – District Management Team  
DoS – US Department of State  
DPA – Dayton Peace Agreement  
EDS – Economic Development Strategy  
EUFOR – European Union Force in Bosnia and Herzegovina  
EURED – European Union Regional Economic Development  
FBiH – Federation of BiH  
GAP – Government Accountability Project  
GFAP – General Framework Agreement on Peace  
GTZ – German Technical Assistance Agency  
IC – International Community  
IEBL - Inter-Entity Boundary Line  
IFOR – Implementation Force (NATO led)  
ISD – Internationally Supervised District  
IST – Internationally Supervised Territory  
JNA – Yugoslav National Army  
KM – Convertible Mark (BiH currency, and abbreviation in local language)  
LAMP – Linking Agriculture and Manufacturing Project  
LGSA – Local Government Support Activity  
MIP – Mission Implementation Program  
NATO – North Atlantic Treaty Organization  
OHR – Office of the High Representative  
PADCO – Planning and Development Collaborative  
PIC – Peace Implementation Council, supervises DPA.  
RS – Republika Srpska  
SEED – Support for Eastern European Democracy Act  
SFOR – Special Forces Unit  
SIDA – Swedish International Development Agency  
UNDP - United Nations Development Program  
USAID – US Agency for International Development  
VAT – Value Added Tax

*Political Map of the Brčko District, BiH*



## **BOSNIA-HERZEGOVINA PROGRAM OVERVIEW**

[http://www.usaid.ba/key\\_documents](http://www.usaid.ba/key_documents)

The United States Government has provided nearly \$1 billion to date for the reconstruction of Bosnia-Herzegovina. In support of the Dayton Peace Accords, the U.S. foreign assistance program, implemented primarily by the U.S. Agency for International Development (USAID), is helping to create a multi-ethnic, stable, democratic Bosnia-Herzegovina with a functioning free-market economy. Other U.S. support is being provided in the areas of counter-terrorism, human rights, customs, the state border service, customs and advice and assistance to the Treasuries. In addition, the U.S. government has delivered over \$1 billion in humanitarian assistance to the former Yugoslavia since 1991.

### **Economic Transformation**

Fiscal Reform: USAID is working to create and implement a transparent and efficient budget formulation and execution system that strengthens government accountability at various levels and provides a solid foundation for future budgets. The program will also create and implement a transparent tax administration system that helps detect tax evasion and provides transparent accounting of collected taxes. Implementing Partners: Deloitte & Touche, Development Alternatives, Inc

Financial Sector Reform: USAID's goals in financial sector reform include developing and strengthening banking supervision and deposit insurance agencies to ensure commercial banks are healthy and adequately regulated, and depositors are protected from bank failures. Other activities include training commercial banks and micro-credit organizations in developing and marketing new products; developing and implementing a centralized movable collateral registry which will be a basis for asset-based lending; and providing timely expert technical assistance on financial sector issues. Implementing Partners: Bearing Point, IBM Consulting, FSVC

Private Enterprise Development: Through sponsorship of a graduate degree in business administration, USAID is helping to provide BiH with the managers it needs to successfully compete in the 21st century global marketplace. USAID also strives to promote economic growth by developing competitive industrial sectors with targeted assistance to clusters and strengthening trade associations in these competitive sectors in order to create a policy dialogue mechanism between the business community and the policymakers. On the agricultural side, USAID is strengthening linkages among producers, processors and retailers. Activities also promote women's business network and business deal-making. Implementing Partners: ARD Consortium; IBM Consulting; CIPE; STAR Network; University of Delaware; UPI, Volksbank & Zagrebacka Banks

Legal and regulatory reform: USAID is strengthening the commercial law regime in BiH by efficiently implementing bankruptcy laws and creating a foundation for secured transactions that can be respected by all interested parties. The program also works to ensure accounting information that is used and produced in BiH is reliable and internationally acceptable. Implementing Partner: Chemonics International

Privatization: USAID's goal is to transfer state-owned assets of strategic companies to the private sector based on a case-by-case privatization in order to make the companies more competitive in a market economy or resolve the ones that are no longer viable. Implementing Partner: IBTCI

### **DEMOCRATIC REFORM**

Media: USAID media project aims to improve the quality of news and programming available to all Bosnians by providing training and technical assistance to independent media outlets in newsroom management, business development, independent domestic production, and legal, regulatory and policy issues. In that light, the project is trying to secure the editorial independence of selected media clients through their financial independence. Also, the project is focusing more on Bosnian leadership in order to secure the presence and effective operation of a nationwide local organization(s) that would conduct ongoing training and technical assistance to local media outlets once the project is concluded. Implementing Partner: Chemonics

Political Processes: USAID provides focused support to political parties on modernization and coalition building as an opposition, as well as on addressing local issues from the ground up. Issue-based politics is also encouraged through support to policy analysis organizations. Additionally, the program provides parliamentary support to promote the development and efficiency of caucuses and committees and assists government ministries in improving their communications strategies. Implementing Partners: NDI, IRI

Legal Systems: Emphasis is placed on activities promoting greater transparency in legal institutions, improved court and prosecutor management and administrative capacities, the professionalization of lawyers, judges and administrative personnel, an independent judiciary and the creation of an effective demand for justice by citizens. A component also has been added to provide support for State Court operations and administration. Implementing Partners: ABA/CEELI, IRIS

Civil Society: USAID develops and nurtures a core group of NGOs capable of leading sector and social reform and targets four major sectors of activity: democracy and human rights, rule of law, economic development, and social safety net. The program also assists citizens and NGOs to increase their participation in local decision-making; supports NGO legislation reform; encourages the development of policy analysis among local institutions; and promotes philanthropy and local fundraising to ensure the viability of local NGOs over the long term. Implementing Partners: ADF, CCI, ICNL, UMCOR, Urban Institute

Local Governance: USAID is promoting efficient, transparent local governance in Central Bosnia through an approach which improves services from local governments and strengthens business and homeowner associations. The Local Government Support Activity is allowing seven municipal governments in Northern Bosnia (including Brcko District) to dramatically improve their service provision. A Development Credit Authority is helping to strengthen municipal services by providing guarantees for loans to municipalities. Implementing Partners: CHF, PADCO, Volksbank

## **REESTABLISHMENT OF MULTI-ETHNIC SOCIETY**

Re-establishing access to basic services: USAID is facilitating the return of minorities to their communities through the provision of basic services such as the repair and/or rehabilitation of water, electricity, schools, and transportation services (streets, small roads, and bridges). Projects are implemented only in areas where actual returns have or are taking place and are done in partnership with other donors providing housing repair or reconstruction. USAID leverages its resources by entering into partnerships with other donors, who provide funds for housing reconstruction, while USAID carries out infrastructure repair. In this way, each partner stretches scarce resources. Implementing Partners: Parsons of Delaware, & local contractors

Improving economic self-sufficiency: USAID is strengthening economic activities in returnee communities to ensure the sustainability of minority returns (e.g. that those who have returned do not sell their property and leave again). These actions include

small income generation grants and loans to individuals, community groups, businesses, and legal aid services, as well as the facilitation of linkages between producers in minority communities and internal and external markets. This includes aid to farmers in production, business management, and market development in specific regions.

Implementing Partners: IRC, UMCOR & Land O' Lakes

Institutional strengthening: USAID's institutional strengthening activities reinforce those institutions responsible for the delivery of power and water—critical basic services. In the water sector, USAID provides hands-on technical support to four water companies in order that they will serve as a model in successful operations for the rest of the country. The aim of the project is to encourage the water companies to become financially self-sustaining, stable operations whose credit-worthiness will help qualify them for EBRD, World Bank, and other loans in the future. In the electric power sector, USAID is providing technical assistance for the restructuring and privatization of the sector. This includes the passage of electricity laws and the establishment of regulatory bodies at the state and entity levels. Implementing Partners: HEIS, PA Consulting, Pierce Atwood

### **CROSS-CUTTING PROGRAMS**

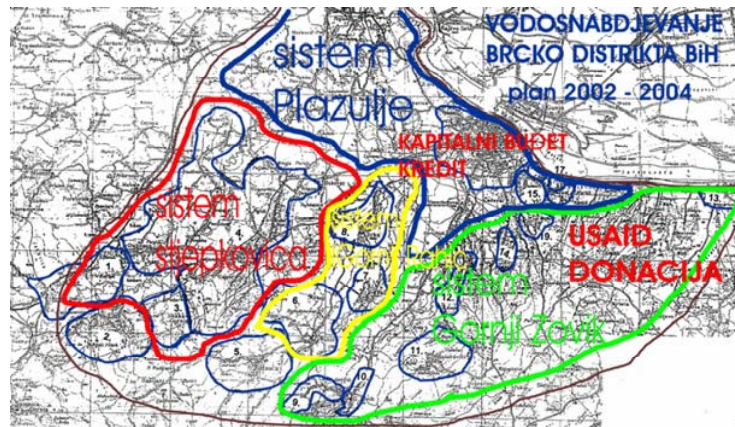
Participant Training: USAID's participant training program sends mid- and senior-level officials, business leaders, and citizen activists to the U.S. and, in some cases, to Central and Eastern Europe for intensive short-term training. Each 2-4 week training program is designed to directly complement USAID activities in support of economic growth and reform, infrastructure rehabilitation, and democracy building in Bosnia. The training strengthens the knowledge and skills of BiH professionals by offering an opportunity to examine U.S. models and approaches. Competitively selected participants are those with decision-making roles in their organizations that will have an immediate and substantial impact on effecting change in Bosnia and Herzegovina. Implementing Partner: World Learning

Anti-trafficking: USAID anti-trafficking efforts are centered on a Prevention and Awareness-Raising Campaign on Trafficking in BiH. The nationwide counter-trafficking campaign targets BiH youth, especially potential risk groups such as girls and women between 12 and 25 years of age. The campaign intends to prevent trafficking in human beings and provide education on the risks and dangers of involvement in trafficking, including the spread of sexually transmitted diseases and HIV/AIDS. Implementing Partner: IOM

Anti-corruption: USAID financed audits of state-owned utilities and is working to strengthen audit capacity of Entity Supreme Audit Institutions. Monitoring of the utility companies is ongoing. Implementing Partner: OSCE

Brcko District Government, Department of Utilities<sup>1</sup>

Below is a scheme of proposed systems for the 2002-2004 Water Works Project. Included is a marking of which sites were to be covered by USAID donations and which were to be covered by the Capital Budget Credit. In 2003 the zone previously covered by USAID was phased into the Capital Budget Credit.



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<sup>1</sup> Information in this section was provided by Gorljub Ljubljanovic during a meeting on 27 April 2005



## Brcko, BiH in Pictures

Reconstruction Project of the Former BRS Barracks:  
Once occupied by JNA and then RS forces, the building to the left is now a secondary school. The building to the right is still under construction.



The Music School  
Muzicka Skola, Nova Skola



Brcko District Court



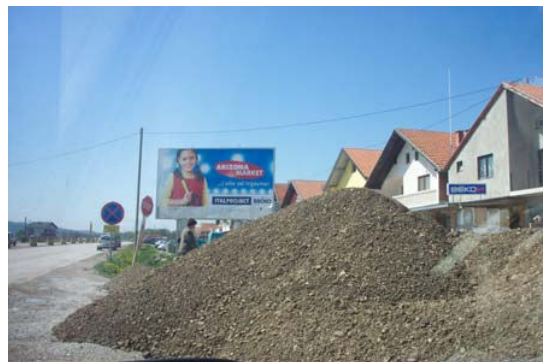
Brcko's Public Park  
“U Prirodu je Nada Za Svijet”  
In Nature is the Hope of the World



2003 Campaign for Environmental Awareness Day  
“Distrikt Je Nase Ogledalo, Zastitimo Prirodu”  
“District is Our Miracle, We Protect the Environment”



Arizona Market





Bridge from Brcko District to Gunja, Croatia

Public Hearing on  
Integration of the Police Force



Dom Kulturi

Brcko Final Award OHR

